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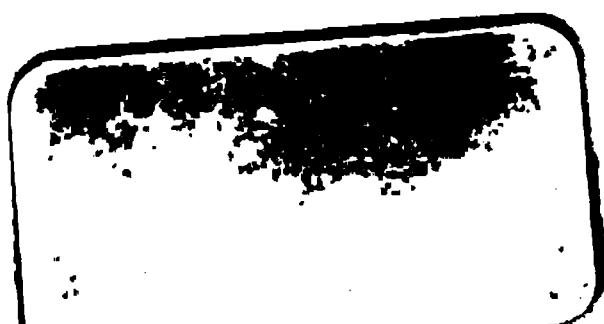
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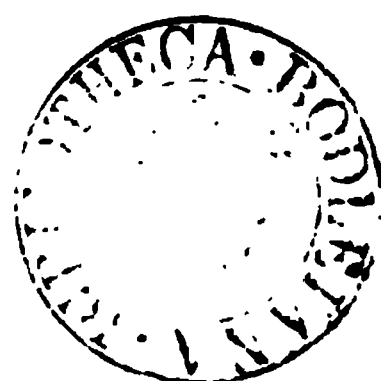
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A
DIGEST
OF THE
Criminal Statute Law
OF
ENGLAND.

PART THE FIRST.

A
D I G E S T
OF THE
Criminal Statute Law
OF
E N G L A N D.



ALPHABETICALLY AND ANALYTICALLY ARRANGED.

BY
HAROLD NUTTALL TOMLINS, ESQUIRE,
OF THE INNER TEMPLE.

PART THE FIRST.

LONDON:

PRINTED BY A. STRAHAN,
LAW-PRINTER TO THE KING'S MOST EXCELLENT MAJESTY;
FOR HENRY BUTTERWORTH, LAW BOOKSELLER,
7, FLEET-STREET, BETWEEN THE TEMPLE GATES.

1819.

P R E F A C E.

THE Design of this Work has been to place together all the Statutes relating to the **CRIMINAL LAW** of **ENGLAND**, the Offences mentioned in which are determinable in Courts of Record, and punishable there corporally or otherwise; so arranged as to shew the Present State of those Laws, the several Acts creating, continuing, reviving, making perpetual, or repealing the same, and how far they bear upon, and are affected by, each other: In so doing, the enacting parts have been introduced *at length*, but such formal clauses as it was thought might be abridged without impairing the general view of the subject, have been inserted in that shape.

All the Statutes relating to **ARSON**; to the different species of Felonious and other **ASSAULTS**; the **BANK** of **ENGLAND**, and other **PUBLIC COMPANIES**, **BANKERS**, and **PUBLIC FUNDS**; the Offences contained in the **BLACK ACT**; the Acts relating to **BULLION** and **PLATE**; the safe Custody of **NAPOLEON BUONAPARTE**, **BURGLARY**, **CATTLE**, the **BENEFIT** of **CLERGY**, **COIN**, **CORONERS**, **EXPENCES** of **PROSECUTORS** and **WITNESSES** in **CRIMINAL CASES**, **EXTORTION**, **FISH**, **FISHERIES**, and **FISH PONDS**, **FORCIBLE ENTRY** and **DETAINDER**, **GAME**, **GAMING**, the **HABEAS CORPUS ACT**, and the Powers of Judges to grant **WRITS** of **HABEAS CORPUS**; all the Statutes relating to the different Species of **HOMICIDE**; the cutting **HOPBINDS**; to **HUE** and **CRY**, and the Trial and Custody of **INSANE OFFENDERS**, will be found classed under those Heads: so also the Statutes relating to **FORGERY**, (with the exception of the Temporary Loan and Revenue Acts, of which only a few of the different clauses have been selected, to shew the nature of the Forgeries thereby intended to be guarded against,) have been classed and arranged under the appropriate heads and subdivisions of that Title: as have also the several species and degrees of **LARCENY** and **ROBBERY** under the latter Title, by consulting which it will be perceived what a multipli-

city of Enactments have taken place and are still in force on the subject alone of ROBBERY from the Person (1), (which is the case also in numerous instances on other subjects), nearly the whole effect of which are contained in the few general words made use of in the Statute 3, 4 W. & M. c. 9. s. 1. (2) Under the Title EAST INDIA COMPANY will be found all the Statutes enabling the Court of King's Bench in England to hear and determine offences committed in the East India Settlements.

By the perusal of this Collection it will be readily seen that many different Statutes have been passed on the same subject, containing descriptions of Offences very similar in their natures, but inflicting very dissimilar punishments; for instance, by the Statute 10 G. 2. c. 32. s. 6. maliciously to set *on fire* any Mine, Pit, or Delph of Coal, is a *capital felony*, whilst only three years afterwards the Legislature declare (by the Statute 13 G. 2. c. 21. (3) that persons wilfully diverting *water* into any Coal Work, Mine, &c. with design to destroy the same, shall pay *Treble Damages, and full Costs to the Party grieved!* So again, by the Statute 22 Car. 2. c. 5. s. 3. Offenders cutting and stealing Cloth, or other Woollen Manufactures from the Rack or Tenter in the night time are ousted of Clergy (4), whilst the Statute 15 G. 2. c. 27. enables one Justice of the Peace to punish the Party in whose possession such goods (which have been stolen from the Rack or Tenter in the night time) shall be found, summarily (for the first and second offences) by convicting them (5) in the treble value of the goods, to be levied by distress and sale of the goods of the Offender, and in default thereof commitment for a certain period; and the third offence is made a transportable Felony.

In some instances, Statutes made on the same subject, which, upon a cursory view, appear to be precisely similar in their provisions, will, upon close inspection, be found to vary from each other in a few words only, and where this occurs the several Statutes

(1) See title LARCENY AND ROBBERY, Division I. § 1. 4. 6. and IV. § 3.

(2) See the same title, Division I. § 6.

(3) This Act recites the provisions of 10 G. 2. c. 32. and that it is reasonable that an *adequate* punishment should be likewise inflicted on persons wilfully destroying or damaging Collieries by means of *water*; surely if the latter punishment was considered *adequate* to the offence, the former must be thought to be *inordinate*.

(4) A late Statute, 51 G. 3. c. 51. has restored to their Clergy offenders guilty of a very similar offence, namely, that of stealing linen exposed to be printed, &c. in any bleaching croft, &c.

(5) It is remarkable that this Statute, giving this *summary proceeding*, enacts that the party *shall be deemed and adjudged convicted of stealing* the same goods; though it never could be intended by the Legislature to give a Justice of the Peace the power to convict a person of *Felony*.

are inserted (1). In not a few cases, also, latter Statutes re-enact, *verbatim*, the Provisions of former Acts, without noticing the existence of the first Statute. See the Statute 35 G. 3. c. 66. and 37 G. 3. c. 46. title FORGERY, II. page 265. 268. and also the Stat. 32 G. 2. c. 14. and 52 G. 3. c. 143. s. 5. title FORGERY, IV. page 278, 279.

The Severity of our Penal Laws has been deprecated by the most eminent Writers on the subject in this and other Countries; and a proposal to reduce the Bulk of the Statute Law in general has at different periods been recommended to Parliament from the Throne itself. Perhaps, as relates to the Criminal Law, or at least such parts of it as punish many offences with Death, the task of weeding the Statute Book of obsolete Acts, or such whereupon the Capital Judgment is rarely executed, and afterwards Digesting (2) the whole Criminal Statute Law into one Code, might not prove either a very difficult or laborious task; especially since the Legislature has already taken steps towards the attainment of one of those most desirable ends, by appointing a Committee to examine and report upon the practicability and policy of one part of such an undertaking. The Compiler of this Work, from motives of respect to the known Talents of the Members of that Committee, defers at present offering numerous observations connected with this subject, and will only add a few remarks on the state of one out of the many Statutes which have come under his review in preparing this Digest.

The *Black Act* (3), (as it is usually termed) may be mentioned as a strong instance among others, of the Existence of a Statute punishing with Death many Offences, before that time not being Felony, the provisions contained in which have, generally speaking, become obsolete, the reasons for which they were so made having long ceased to exist (4), and many parts of

(1) See the Statute 45 G. 3. c. 89. s. 6. under title BANK OF ENGLAND, Division III. § 2. p. 39. wherein the words "Bank Note, Bank Bill of Exchange, Bank Post Bill," are omitted, although contained in the preceding Statute 41 G. 3. U. K. c. 39. (See the same title, Division III. § 1. p. 37.

(2) In forming such a Digest previous to any new punishment being substituted for such as already exists, great care should be taken that the whole subject under consideration is placed in view; for want of such a caution, much inconvenience may arise. Perhaps all the offences for which the Pillory was part of the punishment were not immediately under the eye of the framers of the late Act which takes away that punishment, except in perjury and subornation thereof. The Pillory will be found frequently mentioned as part of the sentence in cases of misdemeanors created by the Statute in this collection.

(3) See that title in this work.

(4) Such as maliciously breaking down the head or mound of any Fish Pond, whereby the Fish shall be lost or destroyed; or cutting down or destroying Trees planted in any

which Act will be found to be virtually repealed by the operation of latter Statutes (1). The powers of the above Act are, in several instances, extended to offences created by subsequent Statutes. See the Stat. 10 G. 2. c. 32. s. 4. under title HOP-BINDS, in this Digest, page 360 ; and also title COAL WORKS, &c. Division I. page 110.

The offence of knowingly sending any Letter, with or without any name subscribed thereto, or signed with a fictitious name, demanding money or other valuable thing, having also been created a capital Felony by the above named Statute (9 G. 1. c. 22.), whenever it may be deemed expedient to repeal that Act it will be necessary to consider how far it is affected by subsequent Statutes on the same subject, namely, 27 G. 2. c. 15. and 30 G. 2. c. 24. s. 1. (2) Of a similar nature to the last mentioned offences is that of sending Threatening Letters to Master Woolcombers, &c. or other Person concerned in the Woollen Manufactures, for which see the Stat. 12 G. 1. c. 34. s. 6.

The Statute 22, 23 Car. 2. c. 1. generally denominated as the *Coventry Act*, (which it is obvious from the similar penning of the two Acts was contemplated by the framers of the Statute 43 G. 3. c. 58.) appears to be rendered nearly obsolete, if it be not entirely repealed, by the effect of the latter Statute.

Numerous as are the Provisions of our Criminal Statute Laws, yet, on a general Revision of them, it might be found desirable not only to soften down the rigour of some of them (3), but to add other further regulations for punishing Offences which those Laws do not yet take cognizance of; one such instance, in particular, may be here noticed, as being almost of daily occurrence, without there being any remedy provided to stop the crime; by the Statute

avenue or growing in any garden, orchard, or plantation, for ornament, shelter, or profit; or rescuing such offenders; or procuring others to join in any such unlawful act.

(1) As to Deer and Conies, by the Statutes 42 G. 3. c. 107. and 57 G. 3. c. 90. though it is observable that the latter Statute only mentions the offenders being *armed*, and does not refer to their being *disguised*, which latter word is used in the Black Act: as to stealing Fish, by the Statute 5 G. 3. c. 14. though that Statute is silent as to the offenders being *armed and disguised*, which are aggravated circumstances necessary to bring them within the Black Act; and as to wilfully and maliciously shooting at any person, by 43 G. 3. c. 58. s. 1. and setting fire to any *house, barn, or outhouse*; the latter Statute omitting the words "or to any *hovel, cock, mow, or stack of corn, straw, hay, or wood,*" which are contained in the Black Act.

(2) See East, P. C. 1117, 1118. where the differences between these Statutes are pointed out with the usual perspicuity of that Author.

(3) *Constructive Burglaries*, (if they may be so called) have, from the absolute necessity of drawing the exact line between what is and what is not such an offence, perhaps gone greater lengths than was originally intended by the Law.

2 G. 2. c. 25. s. 3. the stealing or taking by Robbery any Bank Note or other such particular as is termed in Law a *Chose in Action*, is made Felony, but no mention is made of *Receivers* of such property; so that at this day to receive such property, knowing it to have been stolen, is not punishable: Perhaps too hereafter something may be done to prevent the recurrence of those nice distinctions, which occasionally arise between what shall be deemed the tortious and felonious taking of goods, and what a fraudulent obtaining of them.

In the formation of this Work the Compiler has bestowed much pains and time; of its accuracy, utility, or other merits, those conversant with the subjects here treated of will be the best and most impartial judges; and by such the difficulty of the undertaking will be duly appreciated, and its defects excused. The Work was originally commenced, and has, as far as this First Part goes, been completed, under circumstances of peculiar disadvantage to the Compiler, arising in a quarter from whence, independent of natural ties, impediments to his welfare such as have taken place were equally unlooked for and undeserved.

It now only remains to state, that in the next and concluding Part of the Work (which will be published by the latter end of next month) will be contained all the Statutes relating to such offences as more immediately come under the designation of **MALICIOUS MISCHIEFS**; those relating to **MANUFACTURES, MAYHEM, MINES, NAVY, PERSONATING, PIRACY, RECEIVING STOLEN GOODS, RELIGION, THE REVENUES OF CUSTOMS AND EXCISE, REWARDS, RIVERS, SHIPS, THREATENING LETTERS, TIMBER, TRANSPORTATION** and other Judgment against Felons, **TREASON, WOODS**, and many other Offences, too numerous to be here particularized.

H. NUTTALL TOMLINS.

May 1819.

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A

D I G E S T

OF THE

Criminal Statute Law

OF

ENGLAND.

Admiralty.

(And See Title **PIRACY.**)

§ 1. *The Admiralty Jurisdiction defined.*

§ 2. *The Times and Places when and where the Admiralty Sessions shall be held.*

THE statute 13 R. 2. st. 1. c. 5. recites that the Admirals and their deputies accroached to them greater authority than belonged to their Office, holding their Sessions within Franchises in prejudice of the Common Law and diminution of franchises; and enacts, that the Admirals and their deputies shall not meddle from henceforth of any thing done within the Realm, but only of a thing done upon the Sea, as it hath been used in the time of King Edward, grandfather of our lord the king that now is.

By the statute 2 H. 4. c. 11. the act 13 R. 2. st. 1. c. 5. "shall be firmly holden and kept, and put in due execution; and that as touching a pain to be set upon the Admiral or his lieutenant, that the Statute and the Common Law be holden against them."

§ 1.
The Jurisdiction of the Admirals and their Deputies.

1 Inst. 260.
4 Inst. 135.
12 Co. 104.
13 Co. 42. 52.
Hob. 11. 79.
196. 212.
2 Roll. 497.
2 Bulst. 323.
3 Bulst. 205.
Dyer, 159.
4 Mod. 176.

1 Roll. 80. 203.
23 Co. 52.
1 Co. 106.

19 H. 6. s. 7.
Cro. Car. 296.
603.

4 Mod. 176.
1 Salk. 31.
Rast. 23.

1 Roll. 316.
19 H. 6. s. 7.
5 Co. 106.

Leigh's Case,
M. 7 Jac.
4 Inst. 137.
Owen, 122.
• Points.

§ 2.

An Admiralty
Session of Oyer
and Terminer
and Gaol Deli-
very shall be
held twice at
least in every
year.

And an action on the case with double costs is given against Pursuers in the Admiral's Court.

At the complaint of the Commons made to the King, that the Admirals and their deputies incroached to them jurisdictions and profits pertaining to the King, and other lords, Cities, and boroughs, other than they were wont and ought to have of right; it is declared, ordained, and established, that all manner of contracts, pleas, and quarrels, and all other things arising within the bodies of the counties, as well by land as by water, and also of wreck of the sea, the Admiral's Court shall have no manner of cognizance, power, nor jurisdiction; but the same and all other things rising within the bodies of counties, as well by land as by water as afore, and also wreck of the sea, shall be tried, determined, discussed, and remedied by the Laws of the Land, and not before or by the Admiral nor his lieutenant; nevertheless, of the death of a man, and of a maihem done in great ships, being and hovering in the main stream of great rivers only beneath *bridges** of the same rivers nigh to the Sea, and in none other place of the same rivers, the Admiral shall have cognizance; and also to arrest ships in the great flotes for the great voyages of the King and of the Realm; saving to the King all forfeitures and profits thereof coming: and he shall have also jurisdiction upon the said flotes during the said voyage only; saving always to the lords, cities and boroughs, their liberties and franchises. 15 R. 2. c. 3.

For the more speedy bringing offenders to justice, and to prevent the inconveniences occasioned by want of frequently holding a Session of Admiralty for the trial of offences committed on the high seas, the stat. 32 G. 2. c. 25. (s. 20.) enacts, that from and after June 1, 1759, a Session of Oyer and Terminer and Gaol Delivery for the trial of offences committed upon the High Seas, within the jurisdiction of the Admiralty of England, shall be held twice at the least in every year, that is to say, in the several months of March and October in each year, at Justice Hall, in the Old Bailey, London, except at such times as the Sessions of Oyer and Terminer and Gaol Delivery for the city of London and County of Middlesex shall be appointed to be there held, or in such other places within that part of Great Britain called England, as the Lord High Admiral of Great Britain, or the Commissioners for executing the Office of Lord High Admiral of Great Britain for the time being, or any three or more of them, shall by any letter or order in writing under their hands, directed to the Judge of the High Court of Admiralty in England for the time being, appoint.

Ambassadors.

All writs and processes that shall at any time hereafter be sued forth or prosecuted, whereby the person of any Ambassador, or other Public Minister of any foreign Prince or state, authorized and received as such by her Majesty, her heirs or successors, or the domestic or domestic servant of any such Ambassador or other public Minister, may be arrested or imprisoned, or his or their goods or chattels may be distrained, seized, or attached, shall be deemed and adjudged to be utterly null and void, to all intents, constructions, and purposes whatsoever. 7 Ann. c. 12. s. 3.

All process against ambassadors, &c. or any of their servants, declared void.

See 1 Burr. 401.
3 Burr. 1478.
1677.
4 Burr. 2016.

In case any person or persons shall presume to sue forth or prosecute any such writ or process, such person and persons, and all Attornies and Solicitors prosecuting and soliciting in such case, and all officers executing any such writ or process, being thereof convicted by the confession of the party, or by the oath of one or more credible witness or witnesses, before the Lord Chancellor or Lord Keeper of the Great Seal of Great Britain, the Chief Justice of the Queen's Bench, or the Chief Justice of the Common Pleas for the time being, or any two of them, shall be deemed violators of the Laws of Nations, and disturbers of the public repose, and shall suffer such pains, penalties, and corporal punishment, as the Lord Chancellor, Lord Keeper, and the said Chief Justices, or any two of them, shall judge fit to be imposed and inflicted. s. 4.

Persons suing such process how punishable.

No merchant or other trader whatsoever, within the description of any of the statutes against bankrupts, who hath or shall put himself into the service of any such Ambassador or public minister, shall have or take any manner of benefit by this act: and that no person shall be proceeded against as having arrested the servant of any Ambassador or public minister by virtue of this act, unless the name of such servant be first registred in the office of one of the Principal Secretaries of State, and by such Secretary transmitted to the Sheriffs of Loudon and Middlesex for the time being, or their undersheriffs or deputies, who shall, upon the receipt thereof, hang up the same in some public place in their offices, whereto all persons may resort and take copies thereof, without fee or reward. s. 5.

Merchants or traders not to have the benefit of this act.

Nor any servants, but such as are registered in the Secretary of State's office.

This act declared a public act, and shall be judicially taken notice of as such by all Judges, &c. without specially pleading. s. 6.

Amerciaments.

Justices in Eyre shall not amerce townships because all above twelve years of age came not before the sheriffs and coroners.

The Justices in Eyre from henceforth shall not amerce Townships in their Circuits, because all being twelve years old came not afore the Sheriffs and Coroners, to make inquiry of robberies, burnings of houses, or other things pertaining to the Crown; so that there come sufficient out of those towns, by whom such Enquests may be made full, except Enquests for the death of man, whereat all being twelve years of age ought to appear, unless they have reasonable cause of absence. 52 H. 3. c. 24.

Appeal.

(And See Title HOMICIDE, III.)

§ 1. *Within what time Appeals shall be commenced.*

§ 2. *The Punishment of an Appellor where the Appellee is acquitted.*

§ 3. *Appeal of Accessaries.*

§ 4. *Where Appeals shall be tried.*

§ 1.

The appellee being acquitted, the appellor shall be imprisoned one year;

and also yield damages to the party grieved, and pay a grievous fine to the King.

Abettors of false appeals shall be punished by imprisonment.

Forasmuch as many, through malice intending to grieve others, do procure false Appeals to be made of Homicides and other Felonies by Appellors, having nothing to satisfy the King for their false appeal, nor to the parties appealed for their damages; it is ordained, that when any, being appealed of Felony surmised upon him, doth acquit himself in the King's Court in due manner, either at the suit of the appellor, or of our Lord the King, the Justices before whom the appeal shall be heard and determined shall punish the appellor by a year's imprisonment, and the appellors shall nevertheless restore to the parties appealed their Damages, according to the discretion of the justices, having respect to the imprisonment or arrestment that the party appealed hath sustained by reason of such appeals, and to the infamy that they have incurred by the imprisonment or otherwise, and shall nevertheless make a grievous fine unto the King. And if peradventure such appellor be not able to recompense the damages, it shall be inquired by whose abetment or malice the appeal was commenced, if the party appealed desire it; and if it be found by the same Inquest that any man is Abettor through malice at the suit of the party appealed, he shall be distrained by a judicial writ to come before the Justices; and if he be lawfully convict of such malicious abetment, he shall be punished by imprisonment and

Appeal. § 1—4. Approver.

75

restitution of damages as before is said of the appellor. And from henceforth, in appeal of the death of a man, there shall no essoign lie for the appellor, in whatsoever Court the appeal shall happen to be determined. 13 Ed. 1. c. 12.

No essoign in appeals of homicide.

The statute 6 Ed. 1. c. 9. provides that no appeal shall be abated so soon as they have been heretofore; but if the appellor declare the deed, the year, the day, the hour, the time of the King, and the town where the deed was done, the appeal shall stand in effect, and shall not be abated for default of fresh suit, if the party shall sue within the year and the day after the deed done.

§ 2.

Time of commencing appeals.

“ And forasmuch as it hath been used in some Counties to Outlaw persons being appealed of commandment, force, aid, or receipt, within the same time that he which is appealed for the deed is outlawed;” it is provided and granted by the King, that none be outlawed upon appeal of commandment, force, aid, or receipt, until he that is appealed of the deed be attainted, so that one like Law be used therein through the Realm: nevertheless, he that will so appeal shall not, by reason of this, intermit or leave off to commence his appeal at the next County against them, no more than against their principals which be appealed of the deed; but their Exigent shall remain until such as be appealed of the deed be attainted by outlawry or otherwise. 3 Ed. I. c. 14.

§ 3.

Appeal of accessories not to take place till attainder of the principal.

The statute 1 Hen. 4. c. 14. intituled, “ Where all sorts of appeals shall be tried and determined,” ordains and establishes that all the appeals to be made of things done within the Realm shall be tried and determined by the good Laws of the Realm made and used in the time of the King’s noble Progenitors; and that all the appeals to be made of things done out of the Realm shall be tried and determined before the Constable and Marshall of England for the time being; and that no appeals be from hence forth made or any wise pursued in Parliament in any time to come.

§ 4.

Appeals for offences done in the Realm, shall be tried by the Laws.

Appeals for offences done out of the Realm how to be tried.

Approver.

Persons who pray or pursue, or cause to be prayed or pursued, a Pardon for an Approver, shall have their name inserted therein as granted at their instance; and if the felon after deliverance becomes a felon again, the person having prayed the pardon shall forfeit £100. 5 Hen. 4. c. 2.

Persons praying a pardon for an Approver shall have their name inserted therein.

Arms and Armour.

3 Inst. 160.
5 Co. 71.
3 Mod. 117.

None shall go
armed.

Item, it is enacted, that no man, great nor small, of what condition soever he be, except the King's servants in his presence, and his ministers in executing of the King's precepts, or of their office, and such as be in their company assisting them, and also upon a cry made for Arms to keep the peace, and the same in such places where such acts happen, be so hardy to come before the King's Justices, or other of the King's ministers doing their office with force and arms, nor bring no force in affray of the peace, nor to go nor ride armed by night nor by day in fairs, markets, nor in the presence of the Justices or other ministers, nor in no part elsewhere; upon pain to forfeit their armour to the King, and their bodies to prison at the King's pleasure. And that the King's Justices in their presence, sheriffs, and other ministers in their bailiwicks, lords of franchises and their bailiffs in the same, and mayors and bailiffs of cities and boroughs within the same cities and boroughs, and borough-holders, constables, and wardens of the peace within their wards, shall have power to execute this Act; and that the justices assigned at their coming down into the Country, shall have power to inquire how such Officers and Lords have exercised their offices in this case, and to punish them whom they find that they have not done that which pertained to their office. 2 Edw. 3. c. 3.

None shall ride
in harness, or
with launcegays.

The statute 7 Ric. 2. c. 13. intituled an act, that "no man shall ride in harness within the realm, nor with Launcegays," ordains and prohibits, that from henceforth no man shall ride in harness within the Realm contrary to the form of the statute of Northampton thereupon made, neither with launcegay within the Realm, the which launcegays shall be clearly put out within the Realm as a thing prohibited by our lord the King, upon pain of forfeiture of the said launcegays, armour, and other harness, in whose hands or possession they be found that bear them within the Realm, contrary to the Statutes and Ordinances aforesaid, without the King's special licence.

Launcegays
abolished.

None shall ride
armed.

Recital of 7 R. 2. c. 13. The said statute shall be fully holden and kept, and duly executed, and that launcegays shall be clear put out, upon the pain contained in the said statute, and also to make fine and ransom to the King: and no Lord, Knight, nor other, little nor great, shall go nor ride by night nor by day armed, nor bear sallet nor skull of iron, nor of other armour upon the pain aforesaid, save and except the King's officers and ministers in doing their office. 20 R. 2. c. 1.

Arson.

(And See Titles BURNING, MALICIOUS INJURIES.)

- § 1. *Wilfully burning any Dwelling Houses or Barns wherein shall be any Grain or Corns, or abetting, &c. the same, or being indicted thereof standing mute, or challenging above twenty, or not answering directly to the Indictment, are made capital Felonies by 23 H. 8. c. 1. s. 3. and 25 H. 8. c. 3. s. 2., made perpetual by 33 H. 8. c. 3. s. 7.*
- § 2. *Maliciously in the night time burning, &c. any Ricks or Stacks of Corn, Hay, or Grain, Barns or other Houses or Buildings, or Kilns, Felony by statute 22 & 23 C. 2. c. 7.*
- § 3. *Setting fire to any House, Barn, or Outhouse, or to any Cock, Mow, or Stack of Corn, Straw, Hay, or Wood, or forcibly rescuing such Offenders, or procuring others to join therein, a capital Felony by the statute 9 G. 1. c. 22.*
- § 4. *Wilfully, maliciously, and unlawfully, in England or Ireland, setting fire to any House, Barn, Granary, Hop Oast, Malthouse, Stable, Coach House, Outhouse, Mill, Warehouse, or Shop, then in the possession of the person committing such Offence, or of any other, and counselling, aiding, and abetting such Offence, a capital Felony, by statute 43 G. 3. c. 58. s. 1.*
- § 5. *Punishment of Servants negligently setting fire to any House or Out House.*

No person or persons which hereafter shall happen to be found guilty after the Laws of this Land, for wilfully burning of any dwelling houses, or barns wherein any grain or corns shall happen to be, nor any person or persons being found guilty of any abetment, procurement, helping, maintaining, or counselling of or to any such felonies; [or who being indicted of such offence, and thereupon arraigned, and do stand mute of malice or froward mind, or challenge peremptorily above the number of twenty, or else will not or do not answer directly to the same indictment and felony whereupon he is so arraigned 25 H. 8. c. 3. s. 2.]; shall from henceforth be admitted to the benefit of his or

§ 1. Offenders wilfully burning houses or barns, &c. excluded clergy.

3 Inst. 64. 67. 115.
Kel. 67—69.
Dyer, f. 224.
11 Co. 29.
1 Bulstr. 112.

their clergy, but utterly be excluded thereof, and suffer death. 23 H. 8. c. 1. s. 3.

The above mentioned provision of these Statutes (though made perpetual by the statute 33 H. 8. c. 3. s. 7.) appear to be superseded by the provisions of Statutes of a later date; but as they are still in force, it has been thought proper shortly here to notice them. See the above Statutes at length under title LARCENY and ROBBERY, I. § 1, 2.

§ 2.

3 Inst. 66, 67.

Persons who by night shall burn any ricks of corn, &c. barns, houses, buildings, or kilns, shall lose their clergy.

No corruption of blood, &c.

Offenders may make their election to be transported.

1 Hawk. P. C. 105.
1 Hale, P. C. 566, &c.

Offenders returning shall lose their clergy.

The statute 22 & 23 C. 2. c. 7. reciting that many evil-disposed persons, intending the ruin and impoverishment of their fellow subjects, had devised and of late secretly in the night-time, and at other times when they think their deeds are not known, frequently practised in several parts of this kingdom unlawful and wicked courses in burning of ricks and stacks of hay, corn, and grain, destroying of buildings and trees, &c.; for prevention thereof enacts, that where in any part of this kingdom any person or persons shall in the night-time maliciously, unlawfully, and willingly burn or cause to be burnt or destroyed any ricks or stacks of corn, hay, or grain, barns or other houses or buildings, or kilns, of any person or persons whatsoever; every such offence shall be adjudged felony, and the offenders and every of them shall suffer as in cases of felony. s. 2.

But not to work any corruption of blood, loss of dower, or disinherittance of heirs. s. 3.

By s. 4. it is *declared* that in case any person or persons who shall be convict or attainted of any of the offences made felony by virtue of this act as aforesaid (to avoid judgment of death or execution thereupon for such his offence), shall make his election to be transported beyond the Seas to any of his Majesty's Plantations, that then the Justices of Assize, Oyer and Terminer, Gaol Delivery, or Justice of the Peace before whom such offender shall be convict or attain by virtue of this act, and every of them respectively, shall cause judgment to be entered against every such offender that he be transported beyond the seas to some of his Majesty's plantations in the said judgment to be particularly mentioned and expressed, there to remain for the space of seven years; and that in pursuance of the said judgment the Sheriff or Sheriffs of the county or city where such offender shall be so convict or attainted shall cause the said offender to be safely conveyed and embarked to be transported as aforesaid; and if any such offender shall return into this Kingdom before the expiration of the said seven years, he shall suffer death as a felon, as if no such election to be transported had been made by him.

Upon complaint and request of the party or parties injured in any such manner, any three or more Justices of the Peace for the county, division, city, town corporate, or place where such offence shall be committed, whereof one to be of the quorum, shall and may, and they are thereunto authorized and required by virtue of this act to enquire as well by the oaths of twelve lawful men or more of the same county, as by examination of witnesses upon oath, or by any lawful ways or means which to them shall seem meet, of and concerning any the offences before incurred, and offenders therein; and in order thereunto, to issue out warrants as well for the summoning of jurors as for the apprehending of all such persons as shall or may be thereof suspected, and to take their examination touching the same; as also to cause all such other persons as to them shall seem likely to make discovery thereof, to appear before them, and to give information upon oath of and concerning their knowledge of the premises, so as no person so to be examined by the said Justices of the Peace, shall be convicted or in any wise proceeded against for or by reason of any offence concerning which he or they shall be so examined as a witness, and shall upon such his examination make a true discovery thereof; and in case any person or persons who by the said justices be thought likely to make discovery as aforesaid, shall refuse to appear, or to be examined as a witness, being duly summoned by the said Justices in pursuance of this act, it shall be lawful to the said Justices of the Peace to commit the party so refusing to the common gaol for the said county, without bail or mainprize, until he shall submit to be examined upon oath of and concerning his knowledge touching the same offence, or the offenders by whom the same was committed. s. 6.

Three Justices of Peace may inquire of offences under this act.

By s. 7. offenders punished under this act shall not be punished by any other law, and they shall be proceeded against within six months after the offence committed.

If any person or persons shall set fire to any house, barn, or outhouse, or to any hovel, cock, mow, or stack of corn, straw, hay, or wood, or shall forcibly rescue any person being lawfully in custody of any officer or other person for any of the offences before mentioned; or if any person or persons shall by gift or promise of money or other reward, procure any of his Majesty's subjects to join him or them in any such unlawful act; every person so offending, being thereof lawfully convicted, shall be adjudged guilty of felony, and shall suffer death as in cases of felony, without benefit of clergy. 9 G. 1. c. 22. s. 1.

§ 3.
Persons setting fire to any house, barn, outhouse, hovel, mow or stack of corn, straw, hay or wood, or forcibly rescuing such offenders, or procuring others to join them in such acts, declared guilty of felony without clergy.

By s. 4, 5. offenders not surrendering themselves after proclamation, and persons concealing offenders after the time appointed for such surrender, are also ousted of clergy.

By s. 14. offenders may be tried in any county in England, and corruption of blood is saved.

See the above statute at length under title "BLACK ACT." The above statute is made perpetual by statute 31 G. 2. c. 42.

§ 4.

Persons in England or Ireland maliciously setting fire to any house, barn, granary, hop oast, malthouse, &c. outhouse, mill, &c. in the possession of the offender, or any other, with intent to defraud any body corporate or others, ousted of clergy.

The statute 43 G. 3. c. 58. (1) enacts, that if any person or persons, from and after 1st July 1809, shall either in England or Ireland wilfully, maliciously, and unlawfully set fire to any house, barn, granary, hop oast, malthouse, stable, coach house, outhouse, mill, warehouse, or shop, whether such house, barn, granary, hop oast, malthouse, stable, coach house, outhouse, mill, warehouse, or shop shall then be in the possession of the person or persons so setting fire to the same, or in the possession of any other person or persons, or of any body corporate, with intent thereby to injure or defraud his Majesty, or any of his Majesty's subjects, or any body corporate, that then and in every such case the person or persons so offending, their counsellors, aiders, and abettors, knowing of and privy to such offence, shall be and are hereby declared to be felons, and shall suffer death as in cases of felony, without benefit of clergy. s. 1.

§ 5.

Servants negligently firing any house or outhouse shall forfeit £100, and in default of payment be committed to the house of correction for 18 months.

If any menial or other servant or servants, through negligence or carelessness, shall fire or cause to be fired any dwelling-house or outhouse or houses, such servant or servants being thereof lawfully convicted by the oath of one or more credible witnesses, made before two or more justices of the peace, shall forfeit and pay the sum of one hundred pounds unto the churchwardens of such parish where such fire shall happen, to be distributed amongst the sufferers by such fire, in such proportions as to the said churchwardens shall seem just; and in case of default or refusal to pay the same immediately after such conviction, the same being lawfully demanded by the said churchwardens, that then and in such case such servant or servants shall, by warrant under the hand of two or more of her Majesty's justices of the peace, be committed to some workhouse or house of correction, as the said justices shall think fit, for the space of eighteen months, there to be kept to hard labour. 6 Ann. c. 31. s. 3.

(1) See this act at length, under title ASSAULT, I. § 2.

Artificers.

The statute 25 G. 3. c. 67. (s. 6.) recites that “for the encouraging such manufactories (1) in this kingdom, it is necessary that provision should be made to prevent artificers, and others employed therein, from departing or from being seduced to depart out of this kingdom,” and then enacts, that from and after the 1st August 1785, if any person or persons shall contract with, entice, persuade, or endeavour to seduce or encourage any Artificer or Workman concerned or employed, or who shall have worked at or been employed in the iron or steel manufactures in this kingdom, or in any making or preparing any tools or utensils for such manufactory, to go out of Great Britain to any parts beyond the seas (except to Ireland), and shall be convicted thereof upon indictment or information in the Court of King’s Bench at Westminster, or by Indictment at the Assizes or General Gaol Delivery or Quarter Sessions for the county or place wherein such offence shall be committed, or the offender or offenders shall live or reside; or by Indictment in the Court of Justiciary, or any of the Circuit Courts in Scotland, as the case may be; every person so convicted shall for every Artificer so contracted with, enticed, persuaded, encouraged, or seduced, or attempted so to be, forfeit and pay the sum of five hundred pounds of lawful money of Great Britain, and shall be committed to the common gaol for the county, place, or stewartry wherein the offender or offenders shall be convicted, there to remain without bail or mainprize, for the space of twelve calendar months, and until such forfeiture shall be paid; and in case of a subsequent offence of the same kind, the person or persons so again offending shall, upon the like conviction, forfeit and pay for every person so contracted with, enticed, persuaded, encouraged, or seduced, or attempted so to be, the sum of one thousand pounds of lawful money of Great Britain, and shall be committed to the common gaol as aforesaid, there to remain without bail or mainprize for and during the term of two years, and until such forfeitures shall be paid.

Persons enticing, &c. artificers in the iron or steel manufactories to leave the kingdom;

shall for the first offence forfeit £500, and be imprisoned 12 months;

and for a second offence £1000, and two years imprisonment.

Provided always, that no person shall be prosecuted for any of the offences aforesaid, unless such prosecution shall be commenced within the space of twelve calendar months next after such offence shall be committed. s. 7.

Limitation of prosecutions.

(1) Of IRON and STEEL. See the act at large, under title MANUFACTURES,

Recovery and application of penalties and forfeitures.

The several penalties and forfeitures herein before mentioned, shall and may be sued for and recovered by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at Westminster, or in the Court of Exchequer, or in the Court of Session in Scotland, in the name of his Majesty's Attorney General or Lord Advocate, or in the name of some officer or officers of the Customs in Great Britain respectively, wherein no essoign, protection, privilege, wager of law, or more than one imparlance shall be allowed; and one moiety of the said penalties and forfeitures shall go to the use of his Majesty, his heirs and successors, and the other moiety to the use of such officer or officers of the customs as shall sue and prosecute for the same respectively, after deducting the charges of prosecution from the whole. s. 8.

Limitation of actions.

General issue.

Treble costs.

Seducing colliers from Great Britain.

Limitation of actions or suits, three months; persons so sued may file common bail, or enter a common appearance, and plead the general issue; upon nonsuit, discontinuance, or a verdict, demurrer, or judgment against plaintiff, the defendant shall recover treble costs. s. 9.

By the Statute 39 G. 3. c. 56. reciting that "there have of late been many attempts to seduce Colliers out of Scotland into foreign countries," it is enacted, (s. 8.) that all persons seducing or attempting to seduce Colliers or others aforesaid, from the kingdom of Great Britain, shall be punished in the same manner as persons seducing or attempting to seduce manufacturers or other artizans are punishable by law.

Assault.

I. § 1. *By statute 9 G. 1. c. 22. s. 1. maliciously shooting at any person in any dwelling house, or rescuing persons so offending, or procuring any one to join therein, ousted of clergy.*

§ 2. *By statute 43 G. 3. c. 58. feloniously and maliciously shooting at any of his Majesty's subjects, or attempting so to do, or stabbing or cutting, with intent to murder, maim, disfigure, &c. or to obstruct the apprehension of an offender, ousted of clergy.*

II *By statute 26 G. 2. c. 19. s. 1. feloniously beating, &c. any person endeavouring to save their life from any ship, &c. in distress, or wrecked, &c. ousted of clergy.*

III. *By statute 27 G. 2. c. 23. feloniously assaulting another with any offensive weapon, or by menaces, or in a forcible or violent manner demanding money, with intent to rob, ousted of clergy.*

By 43 G. 3. c. 58. feloniously and maliciously shooting at any of his Majesty's subjects, or attempting so to do, or stabbing or cutting, with intent to rob, ousted of clergy.

IV. *By statute 6 G. 1. c. 23. s. 11. assaulting another in the public streets or highways, with intent to tear, spoil, cut, burn, or deface, or tearing, &c. the garments; felony and transportation.*

V. *By statute 5, 6 Ed. 6. c. 4. striking with any weapon in any Church or Churchyard, or drawing any weapon there with intent to strike, a misdemeanor.*

By statute 9 Ed. 2. c. 3. laying violent hands on a clerk, how punished.

VI. *By statute 33 H. 8. c. 12. malicious strikings, whereby blood is shed, in any of the King's Palaces or Houses, a misdemeanor.*

VII. *By statute 9 Anne, c. 16. feloniously assaulting a Privy Counsellor, in the execution of his office, ousted of clergy.*

VIII. *By statutes 5 H. 4. c. 6. and 11 H. 6. c. 11. to assault any member of either House of Parliament attending their duty, is a misdemeanor.*

IX. *By statute 22, 23 Car. 2. c. 11. s. 9. and 11, 12 W. 3. c. 7. s. 9. a Mariner laying violent hands on his commander, to hinder him from fighting in defence of his ship, &c. ousted of clergy.*

X. *By statute 12 G. 1. c. 34. s. 6. to assault, &c. any master woolcomber, &c. or other person concerned in the woollen manufactures, whereby he shall receive any bodily hurt, for not complying with any illegal By-law, &c. felony and transportation.*

By statute 22 G. 2. c. 27. (s. 12.) the above provisions are extended to certain other manufactures.

- XI. *By 26 G. 2. c. 19. s. 11. assaulting and wounding, &c. any Sheriff, &c. Justice of Peace, Coroner, &c. or Constable or Revenue Officer, on account of the exercise of their duty, in preserving any vessel wrecked, &c. or the goods, &c. therein, transportation.*
- XII. *By stat. 9 Ann. c. 14. s. 7. assaulting and beating any person, on account of money won by gaming, forfeiture of personal estate and imprisonment.*



I. Felonious Assault with Intent to murder, maim, disfigure, or to do some grievous bodily Harm.

(And see Title MAYHEM.)

§ 1.

Persons maliciously shooting at another, or forcibly rescuing such offenders, or procuring others to join them in such acts, declared guilty of felony without clergy.

If any person or persons shall wilfully and maliciously shoot at any person in any dwelling-house or other place, or shall forcibly rescue any person being lawfully in custody of any officer or other person for any of the offences before mentioned, or if any person or persons shall by gift or promise of money or other reward, procure any of his Majesty's subjects to join him or them in any such unlawful act, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in cases of Felony, without benefit of clergy. 9 G. 1. c. 22. s. 1.

This act is made perpetual by 31 G. 2. c. 42.

Offenders not surrendering themselves after proclamation, and persons concealing offenders after the time appointed for such surrender, are also ousted of clergy. 9 G. 1. c. 22. s. 4, 5.

By s. 14. offenders may be tried in any county in England, and corruption of blood is saved.

See the above act 9 G. 1. c. 22. at length, under title "BLACK ACT."

§ 2.

The Statute 43 G. 3. c. 58., intituled "An Act for the further prevention of malicious shooting, and attempting to discharge loaded fire-arms, stabbing, cutting, wounding, poisoning, and the malicious using of means to procure the miscarriage of women, and also the malicious setting fire to buildings, and also for repealing a certain act (21 Jac. 1. c. 27.), and also an act made in Ireland (6 Ann. c. 4. Irish act), and for making other provisions

in lieu thereof," recites, that "divers cruel and barbarous outrages have been of late wickedly and wantonly committed in divers parts of England and Ireland upon the persons of divers of his Majesty's subjects, either with an intent to murder or to rob, or to maim, disfigure, or disable, or to do other grievous bodily harm to such subjects;" and that "the provisions now by Law made for the prevention of such offences have been found ineffectual for that purpose; and that certain other heinous offences, committed with intent to destroy the lives of his Majesty's subjects by poison, or with intent to procure the miscarriage of women, or with intent by burning to destroy or injure the buildings and other property of his Majesty's Subjects, or to prejudice persons who have become Insurers of or upon the same, have been of late also frequently committed, but no adequate means have been hitherto provided for the prevention and punishment of such offences;" and then enacts, that if any person or persons, from and after 1st July 1803, shall either in England or Ireland wilfully, maliciously, and unlawfully shoot at any of his Majesty's subjects, or shall wilfully, maliciously, and unlawfully present, point, or level, any kind of loaded fire-arms at any of his Majesty's subjects, and attempt by drawing a trigger, or in any other manner, to discharge the same at or against his or their person or persons, or shall wilfully, maliciously, and unlawfully stab or cut any of his Majesty's subjects, with intent in so doing, or by means thereof, to murder or rob, or to maim, disfigure, or disable such his Majesty's subject or subjects, or with intent to do some other grievous bodily harm to such his Majesty's subject or subjects, or with intent to obstruct, resist, or prevent the lawful apprehension and detainer of the person or persons so stabbing or cutting, or the lawful apprehension and detainer of any of his, her, or their accomplices, for any offences for which he, she, or they may respectively be liable by law to be apprehended, imprisoned, or detained, or shall wilfully, maliciously, and unlawfully administer to, or cause to be administered to, or taken by any of his Majesty's subjects, any deadly poison, or other noxious and destructive substance or thing, with intent such his Majesty's subject or subjects thereby to murder, or thereby to cause and procure the miscarriage of any woman then being quick with child, or shall wilfully, maliciously, and unlawfully set fire to any house, barn, granary, hop oast, malthouse, stable, coach house, outhouse, mill, warehouse, or shop, whether such house, barn, granary, hop oast, malthouse, stable, coach house, outhouse, mill, warehouse, or shop shall then be in the possession of the

Persons in England or Ireland wilfully, &c. shooting or attempting to shoot any subject of his Majesty, or stabbing, &c. with intent to murder, &c. or to prevent arrest, &c. or administering poison, &c. or setting fire to any house, &c. and their counsellors, &c. ousted of clergy.

If death had ensued from such acts the offence would not have been murder, the person indicted shall be acquitted.

* There appears here to be an omission of the words "shooting," and those that follow that word in the former part of this proviso.

person or persons so setting fire to the same, or in the possession of any other person or persons, or of any body corporate, with intent thereby to injure or defraud his Majesty or any of his Majesty's subjects, or any body corporate, that then and in every such case the person or persons so offending, their counsellors, aiders, and abettors, knowing of and privy to such offence, shall be and are hereby declared to be Felons, and shall suffer death as in cases of felony, without benefit of clergy: provided always, that in case it shall appear on the trial of any person or persons indicted for the wilfully, maliciously, and unlawfully shooting at any of his Majesty's subjects, or for wilfully, maliciously, and unlawfully presenting, pointing, or levelling any kind of loaded fire-arms at any of his Majesty's subjects, and attempting, by drawing a trigger, or in any other manner, to discharge the same at or against his or their person or persons, or for the wilfully, maliciously, and unlawfully stabbing or cutting any of his Majesty's subjects with such intent as aforesaid, that such acts of *stabbing or cutting were committed under such circumstances as that, if death had ensued therefrom, the same would not in Law have amounted to the crime of Murder; that then and in every such case the person or persons so indicted shall be deemed and taken to be Not Guilty of the Felonies whereof they shall be so indicted, but be thereof acquitted.

II. *Feloniously assaulting any Person with Intent to kill, &c., or obstructing the Escape of any one endeavouring to save their Life from a Vessel Wrecked, &c.*

Persons beating, &c. others, with intent to prevent their escape from a wreck, declared guilty of a capital felony.

If any person or persons shall beat or wound with intent to kill or destroy, or shall otherwise wilfully obstruct the escape of any person endeavouring to save his or her life from such [viz. any ship or vessel of his Majesty's subjects, or others, which shall be in distress, or which shall be wrecked, lost, stranded, or cast on shore in any part of his Majesty's dominions] ship or vessel, or the wreck thereof, then such person or persons so offending shall be deemed guilty of Felony, and being lawfully convicted thereof, shall suffer death as in cases of felony, without benefit of clergy. 26 G. 2. c. 19. s. 1.

III. *Felonious Assault with Intent to Rob.*

Offenders assaulting persons with an offensive weapon, or by menaces, and in

Whereas many of his Majesty's subjects have of late frequently been put in great fear and danger of their lives by wicked and ill-disposed persons assaulting and attempting to rob

them: And whereas the punishment of such offenders is not adequate to the heinousness of the crime, nor sufficient to deter wicked persons from such attempts; for the greater punishment therefore of such offenders, and for the more effectual preventing of the like mischiefs for the future; be it enacted, that if any person or persons, from and after the 1st of May 1734, shall with any offensive Weapon or Instrument unlawfully and maliciously Assault, or shall by Menaces, or in or by any forcible or violent manner, demand any Money, Goods, or Chattels, of or from any other person or persons with a felonious intent to rob or commit robbery upon such person or persons, that then and in every such case, all and every such person and persons so offending, being thereof lawfully convicted, shall be and be adjudged guilty of Felony; and every such offender and offenders shall be subject and liable to be transported as in cases of felony; and the Courts by and before whom he, she, or they shall be tried and convicted shall have full power and authority of transporting such offenders for the space of seven years, upon the like terms and conditions, and by the same ways and means, and in like manner as other felons may or are to be transported to any of his Majesty's Colonies or Plantations in America by force or virtue of any Law for that purpose now in being. 7 G. 2. c. 21.

a violent manner demanding money, &c. with intent to rob them, declared guilty of felony, and may be transported for seven years.

If any such offender or offenders aforesaid, who shall be ordered for transportation by or by virtue of this present act, shall break Gaol or escape before such transportation, or shall return into any part of Great Britain or Ireland before the expiration of the said seven years for which such offender or offenders shall be so ordered to be transported as aforesaid, contrary to the intent and meaning hereof; all and every such person and persons so breaking Gaol, escaping or returning into any part of Great Britain or Ireland within the space aforesaid, being thereof lawfully convicted, shall suffer Death as Felons, and have execution awarded against them as persons attainted of Felony, without benefit of clergy. s. 2.

Such offenders breaking gaol, or returning from transportation, ousted of clergy.

By statute 43 G. 3. c. 58. (which see at length, Division I. § 2. of this title) it is enacted, that if any person or persons from and after 1 July 1803, shall, either in England or Ireland, wilfully, maliciously, and unlawfully shoot at any of his Majesty's subjects, or shall wilfully, maliciously, and unlawfully present, point, or level any kind of loaded fire-arms at any of his Majesty's subjects, and attempt by drawing a trigger or in any other manner to discharge the same at or against his or their person or persons, or shall wilfully, maliciously, and unlawfully stab or cut,

Persons wilfully, &c. shooting at, &c. or stabbing, &c. any subject of his Majesty, with intent to rob, ousted of clergy.

any of his Majesty's subjects, with intent in so doing or by means thereof to murder or rob such his Majesty's subject or subjects, that then and in every such case the person or persons so offending, their Counsellors, Aidars, and Abettors, knowing of and privy to such offence, shall be and are hereby declared to be Felons, and shall suffer Death as in cases of felony, without benefit of clergy.

IV. *Feloniously assaulting any Person with Intent to tear, spoil, cut, &c. Garments or Clothes.*

Offenders assaulting persons in the streets or highways with intent, and actually tearing, spoiling, cutting, burning, or defacing their clothes, declared guilty of felony.

If any person or persons shall, at any time or times from and after 24 June 1720, wilfully and maliciously assault any person or persons in the Public Streets or Highways, with an intent to tear, spoil, cut, burn, or deface, and shall tear, spoil, cut, burn, or deface, the garments or cloaths of such person or persons, that then all and every person and persons so offending, being thereof lawfully convicted, shall be and be adjudged to be guilty of Felony; and every such felon and felons shall be subject and liable to the like pains and penalties as in cases of felony: and the Courts by and before whom he, she, or they shall be tried, shall have full power and authority of transporting such felons for the space of seven years, upon the like terms and conditions as are given, directed, or enacted by this or the before recited act. [4 G. 1. c. 11.]—6 G. 1. c. 23. s. 11.

V. *Assaults in Churches or Churchyards, and on Clerks.*

The penalty for brawling in a Church or Churchyard;

Hetley, 86.

If any person shall at any time, by words only, quarrel, chide, or brawl in any Church or Churchyard, it shall be lawful unto the Ordinary of the place where the same offence shall be done, and proved by two lawful witnesses, to suspend every person so offending; that is to say, if he be a Layman *ab ingressu Ecclesie*, and if he be a Clerk, from the ministration of his office, for so long time as the said Ordinary shall by his discretion think meet and convenient, according to his fault. 5, 6 Ed. 6. c. 4.

and for smiting any one there;

If any person shall smite or lay violent hands upon any other, either in any Church or Churchyard, that then *ipso facto* every person so offending shall be deemed Excommunicate, and be excluded from the fellowship and company of Christ's congregation. s. 2.

and for drawing a weapon with intent to strike,

If any person shall maliciously strike any person with any Weapon in any Church or Churchyard, or shall draw any Weapon

in any Church or Churchyard, to the intent to strike another with the same weapon, that then every person so offending, and thereof being convicted by verdict of twelve men, or by his own confession, or by two lawful witnesses, before the Justices of Assise, Oyer and Terminer, or of the Peace in their Sessions, by force of this act, shall be adjudged by the same Justices, before whom such person shall be convicted, to have one of his ears cut off. And if the person or persons so offending have none ears, whereby they should receive such punishment, that then he or they to be marked and burned in the cheek with an hot iron, having the letter F. therein, whereby he or they may be known and taken for fraymakers and fighters; and besides that, every such person to be and stand *ipso facto* excommunicated as is aforesaid.

If any lay violent hands on a Clerk, the amends for the peace broken shall be before the King, and for the excommunication before a Prelate, that penance corporal may be enjoined; which, if the offender will redeem of his own good will, by giving money to the Prelate, or to the party grieved, it shall be required before the Prelate, and the King's prohibition shall not lie. 9 Ed. 2. c. 3.

or striking another there with a weapon.
2 Leon, 183.
Cro. Jac. 462.
Cro. Eliz. 224.
231.
Cro. Car. 264.
1 Roll. 90.
Dyer, 275. pl. 48.
1 Burr. 243.

Regist. 51, 52.
57. 2 Inst. 620.
The punishment of such as lay violent hands on a Clerk.

VI. Assaults in the King's Palaces or Houses.

The Statute 33 H. 8. c. 12. recites, that "Where Treasons, Misprisions of Treasons, Murders, Manslaughters, and other Malicious Strikings, by reason whereof blood is or shall be shed against the King's peace, been often and many times done and committed within the limits of the King's Palace or House, or other house or houses where and when his Majesty is there demurrant and abiding in his own most Royal Person, which offences when they be done be best known by his Highness Officers and Ministers of his most Honourable Household, and by his Majesty's Servants of the Chequer Roll; and if his Majesty shall happen to remove from such his Palace or House, or other house or houses where such offences were done, before the trial or determination thereof, then such offences might not lawfully be tried, heard, and determined by and before the said Officers, but be remitted to be tried and determined by the order of the Common Laws of this Realm; by reason whereof the punishment of the said offenders in such cases hath been long delayed, and sometimes their offences forgotten and not remembred, and so escape unpunished;" and then enacts, That all Treasons, Misprisions of Treasons, Murders, Manslaughters,

4 Inst. 133.

Where and before whom malicious strik-

ings in the King's
palaces or houses
whereby blood is
shed shall be
tried.

Rast. pl. 124.

Bloodsheds, and malicious Strikings, by reason whereof blood is or shall be shed against the King's peace, which hath been done since the feast of All Saints last past, or hereafter shall be done, within any the Palaces or Houses of his Highness or his heirs, or any other house or houses at such time as his Majesty hath been or hereafter shall happen to be there demurrant or abiding in his Royal Person, shall be from henceforth inquired of, tried, heard, and determined within any the King's Palaces or houses, or other house or houses where his Majesty or his heirs shall hereafter repair unto or be abiding, in manner and form following, that is to say, before the Lord Great Master or Lord Steward for the time being of the King's most Honourable Houshold, and of his heirs and successors; and in the absence of the said Lord Great Master or Lord Steward of the Houshold, before the Treasurer and Comptroller for the time being of the King's most Honourable Houshold, and of his heirs and successors, and Steward of the Marshalsea for the time being, or two of them, whereof the Steward of the Marshalsea for the time being to be one, by virtue of their offices, without any Commission or other authority or power other than by the authority of this present act to be given unto them or any of them, which Steward of the Marshalsea shall be for ever from time to time assigned and appointed by writing, under the seal of the said Lord Great Master or Lord Steward for the time being. And whether the King's Majesty or his heirs hath or at any time hereafter shall be removed from the Palace, house or houses where such offences were or shall be done, or not removed before they be enquired of, tried, heard, and determined; yet such offences shall by the authority of this act always from henceforth be enquired of, tried, heard, and determined before the King's Majesty and his Heirs Officers and Ministers of his Household before named or two of them, as is aforesaid, by the Inquisition and Verdict of his Highness and his Heirs, Houshold Servants in his or their Check-Roll, in manner and form as before and hereafter is expressed in this present act, and at such Palace, house or houses, where his Majesty or his Heirs shall be at any time hereafter demurrant or abiding. s. 1.

How a jury
shall be returned
to try such
offence.

If any person or persons so arraigned be found guilty for malicious striking, by reason whereof blood is, hath been, or shall be shed against the King's peace within the said palace or house, or any other house, or any other the said house or houses, that then every such person or persons shall from henceforth have judgment by the said Lord Great Master, or Lord Steward (if

he be absent), and in his absence by the other aforementioned, before whom such person and persons shall be so found guilty, to have his right hand stricken off before the said Lord Great Master or Lord Steward if he be there present, and in his absence before the said Treasurer, Comptroller, and Steward of the Marshalsea, or two of them at the least, whereof the said Steward to be one, and at such place or time as he or they before whom such person or persons shall be so found guilty, shall appoint execution to be done; and the same execution to be done by such person as the said Lord Great Master or Lord Steward, if he be there present, and in his absence, as the said Treasurer, Comptroller, and Steward of the Marshalsea, or two of them, whereof the Steward to be one, shall name or appoint; and also shall have judgment to have perpetual imprisonment during his life, and shall pay fine and ransom at the King's Majesty's pleasure, his heirs and successors. s. 7.

Provided always, that this act before rehearsed concerning malicious strikings, by reason whereof blood is, hath been, or shall be shed against the King's peace, ne the pains and forfeitures before rehearsed for the punishment of the same, shall not in any wise extend or be prejudicial or hurtful to any Nobleman, ne to any other person or persons that shall happen to strike his or their servants within the said Palace or House, or any other house or houses, place or places aforesaid, or within the limits of the same, with his or their hands or fists, or with any small staff or stick, for correction and punishment for any offences committed and done, or to be committed and done, ne to any of the King's Officer or Officers that shall strike any person within the same Palace or House, or any other house or houses as aforesaid; although, by reason of the said stroke or strokes, there happen to be any blood shed of such persons as shall be so stricken, except the person so stricken do die of the same stroke within one year next after the same stroke so given. s. 26.

To what cases
this act shall
not extend.

For the mode of arraigning and trying such offenders, and carrying the judgment into execution, see title PALACES, where the above act is inserted at length.

VII. Feloniously assaulting Privy Counsellors.

(And see Division VIII.)

If any person or persons, from and after 1st May 1711, shall unlawfully attempt to kill, or shall unlawfully assault and strike or wound any person being one of the most Honourable

Persons attempt-
ing to kill, or
assaulting and
striking, or

wounding any
Privy Councillor
in the execution
of his office de-
clared felons, and
shall suffer death.

Privy Council of her Majesty, her heirs or successors, when in the execution of his office of a Privy Councillor in Council, or in any Committee of Council, that then the person or persons so offending, being thereof convicted in due form of Law, shall be and is hereby declared to be Felons, and shall suffer Death as in cases of felony, without the benefit of clergy. 9 Ann. c. 16.

VIII. *Assaulting Members of Parliament.*

(And see Division VII. of this Title.)

Persons assault-
ing Members of
Parliament shall
yield damages to
the party, and be
fined, &c. at the
suit of the King.

Item, because that Richard Chedder, Esquire, which was come to this Parliament with Thomas Broke, Knight, one of the Knights chosen to the same Parliament for the County of Somerset, and menial servant with the said Thomas, was horribly beaten, wounded, blemished, and maimed by one John Salage, otherwise called John Savage, it is ordained and stablished, that seeing the same horrible deed was done within the time of the said Parliament, that proclamation be made where the same horrible deed was done, that the said John appear and yield him in the King's Bench, within a quarter of a year after the proclamation made; and if he do not, the same John shall be attainted of the said deed, and pay to the party grieved his double damages, to be taxed by the discretion of the Judges of the said Bench for the time being, or by Inquest if need be; and also he shall make fine and ransom, at the King's will. Moreover, it is accorded in the same Parliament, that likewise it be done in time to come in like case. 5 H. 4. c. 6.

The punishment
of such as assault
any Lord of Par-
liament, or
Knights, Citizen,
or Burgess com-
ing to the Parlia-
ment or Council.

The King, willing to provide for the ease and tranquillity of them that come to the Parliament and Councils of the King, by his commandment hath ordained and stablished, that if any Assault or Affray be made to any Lords Spiritual or Temporal, Knight of the Shire, Citizen or Burgess, come to the Parliament or to other Council of the King, by his commandment, and there being and attending at the Parliament or Council, that then proclamation shall be made in the most open place of the Town by three several days, where the assault or affray shall be made, that the party that made such affray or assault yield himself before the King in his Bench, within a quarter of a year after the proclamation made, if it be in the time of the Term, or otherwise at the next day in the time of the Term following the said quarter; and if he do not, that he be attainted of the

said deed, and pay to the party grieved his double damages, to be taxed by the discretion of the Justices of the same Bench for the time being, or by Inquest, if it be needful, and make fine and ransom at the King's will: and if he come and be found guilty by inquest, by examination, or otherwise, of such affray or assault, that he shall pay to the party so grieved his double damages, found by the Inquest, or to be taxed by the discretion of the said Justices, and make fine and ransom at the King's will. 11 H. 6. c. 11.

This statute appears virtually to confirm the statute 5 H. 4. c. 6.

IX. Felonious Assault by Mariners on their Commander to obstruct his Defence of his Ship.

Every Mariner who shall have laid violent Hands on his Commander, whereby to hinder him from fighting in defence of his ship and goods committed to his trust, shall suffer Death as a felon. 22, 23 Car. 2. c. 11. s. 9.

Felony for a mariner to endeavour to prevent his commander from fighting his ship.

By the statute 11, 12 W. 3. c. 7. s. 9. if any person shall lay violent hands on his Commander, whereby to hinder him from fighting in defence of his ship and goods committed to his Trust, or that shall confine his Master, shall be adjudged, deemed, and taken to be a Pirate, Felon, and Robber, and being convicted thereof according to the directions of this act, shall have and suffer pains of death, loss of lands, goods, and chattels, as pirates, felons, and robbers upon the seas ought to have and suffer.

See this act at length under Title PIRACY, Division I.

X. Feloniously assaulting Master Woolcombers, &c.

If any person or persons shall after 24th June 1726, assault or abuse any Master Woolcomber, or Master Weaver, or other person concerned in any of the Woollen Manufactures of this Kingdom, whereby any such Master or other person shall receive any bodily hurt for not complying with, or not conforming or not submitting to any such illegal By-law, Ordinances, Rules, or orders aforesaid; or if any person or persons shall write or cause to be written, or knowingly send or cause to be sent, any letter or other writing or message threatening any hurt or harm to any such Master Woolcomber, or Master Weaver, or other person concerned in the Woollen Manufacture, or threatening to burn, pull down, or destroy any of their houses or outhouses, or to cut down or destroy any of their trees, or to maim or kill any of their cattle,

§ 1.

To assault or threaten any master woolcomber shall be felony.

for not complying with any demands, claims, or pretences of any of his or their workmen, or others employed by them in the said manufacture, or for not conforming or not submitting to any such illegal by-laws, ordinances, rules, or orders as aforesaid, every person so knowingly and wilfully offending in the premises, being thereof lawfully convicted upon any Indictment to be found within twelve calendar months next after any such offence committed, shall be adjudged guilty of Felony, and shall be transported for seven years to some or one of his Majesty's colonies or plantations in America, by such ways, means, and methods, and in such manner, and under such pains and penalties, as felons in other cases are by Law to be transported. 12 G. 1. c. 34. s. 6.

To whom this
act shall extend.

And whereas the mysteries of combing of Jersey or Wool, and of Frame-work knitting and making of Stockings, are considerable branches of the Woollen Manufacture of this Kingdom; be it enacted, that this act, and all the clauses, provisions, pains, penalties, and forfeitures therein contained, shall extend and be constructed (1) and adjudged to extend to combers of Jersey and wool, to frame-work knitters and weavers or makers of stockings, and to all persons whatsoever employed or concerned in any of the said manufactures, in as full and ample manner as any other part of the woollen manufacture is provided for by this act; and the pains, penalties, and forfeitures which shall be incurred by virtue hereof, shall be inflicted, levied, and taken in the same manner as the pains, penalties, and forfeitures before mentioned in this act are directed, ordered, and appointed. s. 8.

§ 2.

The statute 22 G. 2. c. 27. (s. 12.) recites the sixth and other sections of 12 G. 1. c. 34., and that "it is necessary that such provisions and regulations should be extended to journeymen dyers, journeymen Hot Pressers, and all other persons employed in the woollen manufactures of this kingdom; and also to journeymen, servants, workmen, and labourers, employed in the making of Felts or Hats, and in the manufactures of silk, mohair, fur, hemp, flax, linen, cotton, fustian, iron, and leather, or any manufactures made of wool, fur, hemp, flax, cotton, mohair, or silk, or of any of the said materials mixed one with another," and then enacts, that the said several before recited clauses in the said act 12 G. 1., and all the provisions, regulations, pains, penalties, and forfeitures therein contained, shall, from and after the 24th of June 1749, extend, and be construed, deemed, and adjudged to extend, to journeymen dyers, journeymen hot-pressers, and all other persons

The provisions of
12 G. 1. c. 34.
s. 8. extended to
persons employed
in certain enu-
merated manu-
factures.

(1) Probably an error for *construed*.

whatsoever employed in or about any of the woollen manufactures of this Kingdom; and also to journeymen, servants, workmen, and labourers, and all other persons whatsoever, employed in the making of felts or hats, in or about any of the manufactures of silk, mohair, fur, hemp, flax, linen, cotton, fustian, iron, or leather, or in or about any manufactures made up of wool, fur, hemp, flax, cotton, mohair, or silk, or of any of the said materials mixed one with another; in as full and ample manner, as the said provisions, regulations, pains, penalties, and forfeitures, are by the said recited act declared to extend to the several and respective persons therein named; and the pains, penalties, and forfeitures which shall be incurred by reason of any offence committed against the said [recited] act by any person or persons employed or concerned in or about any of the said manufactures herein before enumerated, shall be inflicted, levied, and recovered in the same manner as the pains, penalties, and forfeitures contained in the said last in part recited act are directed to be inflicted, levied, and recovered upon and against the several and respective persons therein mentioned.

XI. On Sheriffs and other Judicial Officers acting in the Preservation of Vessels or Goods, &c. wrecked, &c., or cast on Shore.

If any Sheriff or his Deputy, Justice of the Peace, Mayor, or other Magistrate, Coroner, Lord of a Manor, Commissioner of the Land Tax, Chief Constable, or Petty Constable, or other Peace Officer, or any Custom-house or Excise Officer, or other person lawfully authorized, shall be assaulted, beaten, and wounded for or on account of the exercise of his or their duty, in or concerning the salvage or preservation of any Ship or Vessel in Distress, or of any ship or vessel, goods or effects, stranded, wrecked, or cast on shore, or lying under water, in any of his Majesty's Dominions, then any person or persons so assaulting, beating, and wounding, shall upon trial and conviction by Indictment at the Assises or General Gaol Delivery, or at the General or Quarter Sessions for the county, riding, or division where such offence shall be committed, be transported for seven years to some of his Majesty's colonies in America; and shall be subject to such subsequent punishment, in case of return before that time, as other persons under sentence of transportation are by the law subjected unto. 26 G. 2. c. 19. s. 11.

Persons assaulting and beating, &c. the Sheriff, &c. executing this act, &c. shall be transported for seven years.

XII. Assaults on account of Money won at Play.

(And see Title GAMING.)

Person assaulting or challenging, &c. another to fight, on account of money won at playing, shall forfeit all his personals, and be imprisoned for two years.

For preventing of such Quarrels as shall and may happen upon the account of Gaming, be it enacted, that in case any person or persons whatsoever shall assault and beat, or shall challenge or provoke to fight, any other person or persons whatsoever, upon account of any money won by gaming, playing, or betting at any of the games aforesaid (1); such person or persons assaulting and beating, or challenging or provoking to fight such other person or persons upon the account aforesaid, shall, being thereof convicted upon an indictment or information to be exhibited against him or them for that purpose, forfeit to her Majesty, her heirs and successors, all his goods, chattels, and personal estate whatsoever, and shall also suffer imprisonment without bail or mainprize in the common gaol of the county where such conviction shall be had, during the term of two years. 9 Ann. c. 14. s. 8.

Assise CLERK OF).

Clerk of Assise shall not, during Assises, act as Counsel for any person.

By the Statute 33 H. 8. c. 24. s. 6. it is provided and enacted, that any Clerk of Assise, during the only time of the Session of or for any Assise or Assises, or of or for any *Nisi Prius*, shall not be of Counsel with any person or persons within any Circuit whereof he shall be Clerk of Assise, otherwise than to that office only appertaineth, upon pain to forfeit, for every time offending contrary to this statute, ten pounds; one moiety to the King, and the other moiety to the party grieved, to be sued for in any of the King's Courts of Record, by action of debt, bill, plaint, information, or otherwise; in which suit no essoign, protection, wager of law, or other dilatory plea, shall be admitted or allowed.

This act shall not extend to the Justices, Justice Clerks or Clerk of Assises within the Duchy and County Palatine of Lancaster, that now be or hereafter shall be. s. 7.

3 Inst. 215.
12 Co. 32. 103.

Reciting, that persons had been indicted, arraigned, and attainted, and some of them Clerks convict, and some of them Clerk, attainted, and some of them outlawed, for Murder, Burglary, Robbery, and other Felonies, before Justices of Peace, Justices of Gaol Delivery, and Oyer and Terminer, within cities, counties, franchises,

(1) Cards, dice, tables, tennis, bowls, or other game or games whatsoever. See s. 1, 2. of the act.

and liberties, the Records whereof, by negligence of the Clerks of the Crown, Clerks of the Peace, Clerks of Assise, and others having the order and keeping of the same Records, have been imbezled, and not ready to be objected against such persons as have been newly arraigned in the Bench, or before other the King's Justices; and that it hath not been known whither to resort for such Records, because they were not certified into any place certain; whereby such persons, and like offenders, so newly arraigned, have had the Benefit of their Clergy, where they ought not ne should have had the same if such Records had then been present where such persons were so newly arraigned, or else certified into some other place certain, where the same might have been seen, sent, or written for to have been objected against such person so newly arraigned: in consideration whereof it is enacted, that the Clerk of the Crown, Clerks of the Peace, and Clerks of Assise for the time being, where such attainder, outlawry, or conviction shall be so had, shall not only certify a brief transcript, in a few words, containing the tenor and effect of every such indictment, outlawry, or conviction, and clerk attainted before them; that is to say, the name, surname, and addition of every such person so indicted and thereupon outlawed, convicted or clerk attainted, and the certainty of the said felony or other offence, and the day and place thereof, before the King in his Bench at Westminster, there to remain of Record for ever, within forty days after such attainder, conviction, or outlawry, if the Term be then, and if not, within 20 days after the beginning of the next Term; upon pain that every such Clerk of the Crown, Clerk of the Peace, and Clerk of Assise, for the non-certifying of every such Record, to lose and forfeit 40s., one moiety to the King, and the other to the party suing, by action of debt, &c.: and the Clerk of the Crown of the King's Bench shall receive such certificates and transcripts, when they shall be tendered by such Clerks of the Crown, Clerks of the Peace, and Clerks of Assise, or by their deputy, without taking any fee, upon pain of 40s. for every certificate refused. 34, 35 H. 8. c. 14. s. 2.

If there be more persons contained in the indictment than are attainted, convicted, or outlawed, the names only of such as are attainted, &c. shall be certified. s. 3.

The Clerk of the Crown of the King's Bench shall, as the Justices of Gaol Delivery or Justices of Peace write to him for the names of such persons so attainted by outlawry, &c. or convict, incontinently, without delay, certify the same, under penalty of 40s, for every name so written for and not certified, s. 4.

Clerks of the Crown, of the Peace, and of Assise, shall certify into K. B. a transcript of all persons convicted before them of felony;

on penalty of 40s. for each name omitted.

Clerk of the Crown of K. B. shall certify such transcripts to Justices when required.

Assises.

Where any difficulty arises at the Assises it shall be referred to K. B.

Assises of Novel Disseisin and Mortdancestor shall not be taken but in the Shires, and after this manner: We, or if we be out of this Realm, our Chief Justicers, shall send our Justicers through every County once in the year, which with the Knights of the Shires shall take the said Assises in those counties; and those things which at the coming of our foresaid Justicers being sent to take those Assises in the counties cannot be determined, shall be ended by them in some other place in their Circuit; and those things which for difficulty of some articles cannot be determined by them, shall be referred to our Justicers of the Bench, and there shall be ended. 9 H. 3. c. 12.

Enforced and amended by 13 Ed. 1. c. 30.

The Assises shall be holden in the principal towns.

The Justices assigned and to be assigned to take Assises and deliver the gaols, shall from henceforth hold their Sessions in the principal and chief Towns of every of the Counties where the Shire Courts of the same Counties be holden and hereafter shall be holden. 6 R. 2. c. 5.

By 11 R. 2. c. 11., reciting 6 R. 2. c. 5., and inconveniences which had arisen therefrom, it is granted that the Chancellor of England for the time being shall have power thereof to make and provide a remedy by advice of the Justices from time to time when need shall be, notwithstanding the said statute.

None of the country shall sit on the Bench with the Judges.

Item, the King doth will and forbid that no Lord nor other of the Country, little nor great, shall sit upon the Bench with the Justices to take Assises in their Sessions in the Counties of England, upon great Forfeiture to the King; and hath charged his Justices that they shall not suffer the contrary to be done. 20 R. 2. c. 3.

Sheriffs, &c. shall certify the names of all persons in their custody to the Justices of Gaol Delivery.

It is enacted, that every Sheriff, Bailiff of Franchise, and every other person having authority or power of keeping of Gaol or of prisoners for felony, in like manner and form (1) do certify the names of every such prisoner in their keeping, and of every prisoner to them committed for any such cause, at the next General Gaol Delivery in every county or franchise where any such gaol or gaols have been or hereafter shall be, there to be kalendered before the Justices of the deliverance of the same gaol, whereby they may, as well for the King as the party, proceed to make deliverance of such prisoners according to the law, upon pain to forfeit unto the King, for every default thereof Recorded, C. s. 3 H. 7. c. 3.

(1) As directed by the former part of the Statute, to be done by Justices of Peace of offenders bailed by them. And See post, title BAIL.

Attornies.

No Steward, Bailiff, nor Minister of Londs of franchises which have return of writs, shall be Attorney in any plea within the franchise or bailiwick whereof he is or shall be Officer or Minister, in any time to come. 4 H. 4. c. 19.

Steward, &c. of Lords of franchises shall not be Attorney in any plea within any place where he is officer.

For avoiding the great mischiefs and abuses which arise from infamous and wicked persons already convicted of Wilful Perjury or forgery, practising as Attornies or Solicitors in Courts of Law and Equity, be it enacted, that if any person who hath been or who shall be convicted of forgery, or of wilful and corrupt perjury, or subornation of perjury, or common barrety, shall after 24 June 1726 act or practise as an Attorney, or Solicitor or Agent, in any suit or action brought or to be brought in any Court of Law or Equity within that part of Great Britain called England, the Judge or Judges of the Court where such suit or action is or shall be brought, shall, upon complaint or information thereof, examine the matter in a summary way in open court; and if it shall appear to the satisfaction of such Judge or Judges that the person complained of, or against whom such information shall be given, hath offended contrary to this act, such Judge or Judges shall cause such offender to be transported for seven years to some or one of his Majesty's colonies or plantations in America, by such ways, means, and methods, and in such manner, and under such pains and penalties, as felons in other cases are by law to be transported. 12 G. 1.^o c. 29. s. 4.

Persons convicted of forgery, perjury, subornation of perjury, or common barrety, afterwards practising as attornies, &c. shall be transported for seven years.

By the statute 21 G. 2. c. 3. the above statute of 12 G. 1. c. 29. was revived and made perpetual.

Bail.

(And see Titles HABEAS CORPUS, PERSONATING.)

As forasmuch as Sheriffs, and other, which have taken and kept in prison persons detected of felony, and incontinent have let out by replevin such as were not replevisable, and have kept in prison such as were replevisable, because they would gain of the one party and grieve the other; and forasmuch as before this time it was not determined which persons were replevisable and which not, but only those that were taken for the Death of Man, or by commandment of the King, or of his Justices, or for the Forest: It is provided, and by the King commanded, that such prisoners as before were outlawed, and they which have abjured the Realm,

Certain notorious offenders

shall not be
bailed.
Rast. pl. 124.

What descrip-
tion of offenders
may be bailed.

provors, and such as be taken with the Manour, and those which have broken the King's prison, thieves openly defamed and known, and such as be appealed by provors, so long as the provors be living (if they be not of good-name); and such as be taken for house-burning feloniously done, or for false money, or for counterfeiting the King's seal, or persons excommunicate, taken at the request of the Bishop, or for manifest offences, or for Treason touching the King himself, shall be in no wise repleviable by the common writ, nor without writ; but such as be indicted of Larceny by Inquests taken before Sheriffs or Bailiffs by their office, or of light suspicion, or for Petty Larceny that amounteth not above the value of 12d., if they were not guilty of some other larceny aforesaid, or guilty of Receipts of Felons, or of Commandment, or Force, or of Aid in felony done, or guilty of some other trespass for which one ought not to lose life nor member; and a man Appealed by a provor after the death of the provor, (if he be no common thief, nor defamed); shall from henceforth be let out by sufficient surety, whereof the sheriff will be answerable, and that without giving ought of their goods. And if the Sheriff, or any other, let any go at large by surety that is not replevisable, if he be Sheriff or Constable, or any other Bailiff of fee, which hath keeping of prisons; and thereof be attainted, he shall lose his fee and office for ever. And if the Under Sheriff, Constable, or Bailiff of such as have fee for keeping of prisons, do it contrary to the will of his Lord, or any other Bailiff being not of fee, they shall have three years imprisonment, and make fine at the King's pleasure; and if any withhold prisoners replevisable after that they have offered sufficient surety, he shall pay a grievous amercement to the King; and if he take any reward for the deliverance of such, he shall pay double to the prisoner, and also shall be in the great mercy of the King. 3 Ed. 1. c. 15.

Justices of As-
size, &c. shall
inquire who are
bailed.

The same Justices (i. e. of Assise and Gaol Delivery on their circuits) shall inquire them if Sheriffs or any other have let out by replevin prisoner not replevisable; and whom they shall find guilty, they shall chasten and punish in all things according to the form of the Statute aforesaid, [3 Ed. 1. c. 15.] 27 Ed. 1. st. 1. c. 3.

Item, because that persons indicted of felonies, robberies, and theft in times past, have removed the same indictment before the King, and there yielded themselves, and by the Marshals of the King's Bench have been incontinently let to bail, and after have done many evil deeds, and lain in wait to slay and evil intreat their enditors; and also persons appealed of felony,

after the exigent awarded, have yielded themselves before the King, and have been let to bail by the said Marshals: It is accorded and established, that such enditees and appellees shall be safely and surely kept in prison, as belongeth to them, according to the charge which the said Marshals shall have of the Justices. And if any marshal do otherwise, at the complaint of every man that will complain, the Justices shall do him right during the Terms; and, in the end of the Terms, upon their rising, the said Marshals shall choose before the said Justices, before they depart the places, in what town they will keep such prisoners, at their peril. And in the same town they shall allow to them houses to keep such prisoners at their own costs and charges, and there they shall keep them in prison, and shall not suffer them to go wandering abroad, neither by bail nor without bail; and if any such prisoner be found wandering out of prison by bail or without bail, and that be found at the King's suit, or at the suit of the party, the Marshals which shall be found thereof guilty shall have half a year's imprisonment, and be ransomed at the King's will; and the Justices shall thereof make inquiry when they see time. And as to the Marshals, it shall be done within the verge that which reason will. And in case that the Marshals suffer by their assent such prisoners to Escape, they shall be at the law, as before this time they have been. And the King intendeth not by this statute to lose the escape where he ought to have the same. 5 Ed. 3. c. 8.

Geolers shall not let Appellors and Enditors to bail, but shall safely keep them.

A recital of 1 Ric. 3. c. 3. and that by colour of the powers there given, afterwards divers persons, such as were not mainpernable, were often times letten to bail and mainprize by Justices of Peace, against the Law, whereby many Felons and Murderers escaped: wherefore it is enacted, that Justices of Peace in every shire, city, or town, or two of them at the least, whereof one to be of the Quorum, have authority and power to let any such prisoners or persons mainpernable by the law, that have been imprisoned within their several counties, city, or town, to bail or mainprize, unto their next General Sessions, or unto the next Gaol Delivery of the same Gaols, in every shire, city, or town, as well within franchises as without, where any gaols been or hereafter shall be; and that the said Justices, of the Peace, or one of them, so taking any such bail or mainprize, do certify the same at the next General Sessions of the Peace, or the next General Gaol Delivery of any such gaol, within every such county, city, or town, next following after any such bail or mainprize so taken, upon pain to forfeit unto the King, for every default thereupon recorded, £10; and that the foresaid act, giving authority and power in the

Two Justices of Peace may let a prisoner to bail or mainprize.

premises to any Justice of the Peace by himself, be in that behalf utterly void and of none effect, by authority of this present Parliament. 3 H. 7. c. 3.

None shall be
bailed but accord-
ing to 3 H. 7.
c. 3.
Roll. 268.

A recital of 3 H. 7. c. 3., and that since the making thereof, one Justice, in the name of himself and one of the Justices his companion, not making such Justice party or privy unto the case, wherefore such prisoner should be bailed, had oftentimes, by sinister means, set at large great offenders, and to hide their affections in that behalf, had signed the cause of such prisoner's apprehension to be but only suspicion of felony: it is enacted, that no Justice or Justices of the Peace shall let to bail or mainprize any such person, which, for any offence by them committed, be declared not to be replevied or bailed, or be forbidden to be replevied or bailed by the said statute. 1, 2 Ph. & M. c. 13. s. 2.

Persons accused
of manslaughter
or felony shall
only be bailed
by two Justices;

Any person arrested for manslaughter or felony, or suspicion thereof, beingailable by the Law, shall not be let to bail or mainprize by any Justices of Peace, if it be not in open Sessions, except it be by two Justices of Peace at the least, one whereof to be of the Quorum, and the same Justices to be present together at the time of such bailment or mainprize; which bailment or mainprize they shall certify in writing, subscribed or signed with their own hands, at the next Gaol Delivery to be holden within the county where such person shall be arrested or suspected. s. 3.

which shall be
certified to the
next general
Gaol Delivery.
3 Bulstr. 113.

Justices shall
take examina-
tions in writing,
and certify same,
and the bailment,
to the next
Gaol Delivery.

Such Justices, before taking such bailment or mainprize, shall take the examination of the prisoner, and information of them that bring him, of the fact and circumstances thereof, and the same, or as much thereof as shall be material to prove the felony, shall put in writing, before they make the same bailment; which examination, with the bailment, such Justices shall certify at the next General Gaol Delivery to be holden within the limits of their commission. s. 4.

Duty of Justices
and Coroners in
London and
Middlesex in
like cases.

Justices of Peace and Coroners in London and Middlesex, and other Cities, Boroughs, and Towns Corporate in this Realm and Wales, shall, within their jurisdictions, have authority to let to bail felons and prisoners as heretofore accustomed; and shall also take examination and bonds upon every such bailment, and shall certify the same at the next Gaol delivery to be holden within the shire, city, borough, or town where their jurisdictions extend, on pain of such fine to be set upon such Justices and Coroners, upon due proof of such offence by examination before such Justices of Gaol delivery, as such Justices of Gaol delivery shall think meet. s. 5, 6.

Penalty on them
for omitting
their duty.

Bank of England.

In order to prevent the unnecessary repetition of Statutes in this Work, the acts relating to the Forgery of Bank of England notes and other instruments of the Company, and to the Personating Proprietors of Stock, and other similar offences, are, on account of their being classed by the Legislature in those statutes with numerous other securities and instruments, arranged under titles FORGERY, PERSONATING, and other appropriate heads, in this Work, As to Larceny by Servants &c. of the Bank, see title LARCENY, xx. i.

- I. *Forging the Common Seal of the Governor and Company of the Bank of England, a Capital Felony by 8 & 9 W. 3. c. 20. s. 36.*
- II. *Purchasing or receiving Bank Notes, Bank Bills of Exchange, Bank Post Bills, &c. knowing the same to be forged, or knowingly, &c. having the same in Possession, Felony and Transportation by 41 G. 3. U. K. c. 39. s. 5.*
- III. *Making, using, or having in possession, any Frame, &c. for making Paper resembling Bank Paper, or engraving, &c. any Bank Note, &c. upon any plate, &c. or having the same in possession, &c. Felony.*
- IV. *Receiving or paying any Bank Note or Bill for less than the Amount of lawful Money expressed therein, a Misdemeanour by 51 G. 3. c. 127. and 52 G. 3. c. 50.*
- V. *Clerks, &c. of the Bank making out or delivering, &c. any false Dividend Warrant, transportable by 35 G. 3. c. 66. and 37 G. 3. c. 46.*

I. *Forging the Common Seal of the Governor and Company of the Bank of England.*

By statute 8 & 9 W. 3. c. 20. s. 36. reciting that divers frauds and cheats have been put upon the Governor and Company of the Bank of England, by the altering, forging, and counterfeiting of the bank bills and bank notes of the said Governor and Company, and by the erasing and altering indorsements thereon,

Persons forging the common seal of the Bank guilty of felony without clergy,

to the great decay of credit; for redressing the same for the future, enacts, that the forging or counterfeiting the Common Seal of the said Corporation of the Governor and Company, or of any sealed bank bill, &c. shall be and is hereby declared and adjudged to be Felony without benefit of clergy.

Mr. East, in his Pleas of the Crown, vol. 2. p. 877. observes, that the above provision still remains in force, for the statute 11 G. 1. c. 9., which left several of the offences contained in the above act and 7 & 8 W. 3. c. 31. simple felonies, makes no mention of the Common Seal, and reserve, all the pains and penalties, &c. of former acts not thereby altered.

II. Purchasing or receiving any Bank Note, &c. knowing the same to be forged, or knowingly, &c. having the same in possession.

Persons knowingly purchasing, receiving, or having in possession any forged bank note, &c. guilty of felony, and shall be transported for 14 years.

If any person or persons shall from and after the passing of this act, purchase or receive from any other person or persons any forged or counterfeited bank note, bank bill of exchange, bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, knowing the same to be forged or counterfeited, or shall knowingly or wittingly have in his or their possession or custody, or in his, her, or their dwelling house, out-house, lodgings, or apartments, any forged or counterfeited bank note, bank bill of exchange, bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, (knowing the same to be forged or counterfeited (without lawful excuse, the proof whereof shall lie upon the person accused), every person or persons so offending and being thereof convicted according to law, shall be adjudged a Felon, and shall be transported for the term of fourteen years. 41 G. 3. U. K. c. 39. s. 5.

III. Making, using, or having in possession any Frame, &c. for making Paper resembling Bank Paper, or engraving, &c. any Bank Note, &c. upon any Plate, &c. or having the same in possession.

§ 1.

The statute 41 G. 3. (U. K.) c. 39. which is intituled “An act for the more effectually preventing the forgery of bank notes, bank bills of exchange, and bank post bills,” and reciting that “the forgery of bank notes, bank bills of exchange, and bank post bills hath of late very much increased in this kingdom; and as well for the prevention thereof, as also to facilitate the

detection of the same, the Governor and Company of the Bank of England have procured to be made, for the purpose of being used in the future issue of bank notes, bank bills of exchange, and bank post bills, a new paper of a different manufacture from that formerly used, either by the said Governor and Company, or any other person or persons in this Kingdom, in the issue of promissory notes or bills of exchange, in which new paper, instead of the bar lines being straight and parallel to each other, as in the paper heretofore used, the same are curved or waiving, and the laying wire lines are also formed in a waived or curved shape, and the numerical amount or sum of each bank note, bank bill of exchange, and bank post bill expressed in a word or words in Roman letters, is made to appear visible in the substance of the paper: And whereas it is expedient, for the better prevention of the forgery of bank notes, bank bills of exchange, and bank post bills, that the said Governor and Company should have the exclusive privilege and authority of using, in the issue of their notes and bills, the paper hereinbefore described," enacts, that from and after June 24, 1801, if any person or persons (other than the officers, workmen, servants, or agents for the time being of the said Governor and Company, to be authorized and appointed for that purpose by the said Governor and Company, and for the use of the said Governor and Company only), shall make or use, or cause or procure to be made or used, or knowingly aid or assist in the making or using, or (without being authorized or appointed as aforesaid) shall knowingly have in his, her, or their custody or possession (without lawful excuse, the proof whereof shall lie upon the person accused), any frame, mould, or instrument for the making of paper with curved or waiving bar lines, or with the laying wire lines thereof in a waiving or curved shape, or with any number, sum, or amount expressed in a word or words in Roman letters visible in the substance of such paper, or shall manufacture, make, use, vend, expose to sale, publish or dispose of, or cause or procure to be manufactured, made, used, or vended, exposed to sale, published, or disposed of, or aid or assist in the manufacturing, making, using, vending, exposing to sale, publishing, or disposing of, or (without being authorized or appointed as aforesaid) shall knowingly have in his, her, or their custody or possession, any paper whatsoever with curved or waiving bar lines, or with the laying wire lines thereof in a waiving or curved shape, or having any number, sum, or amount expressed in a word or words in Roman letters, appearing visible in the sub-

Unauthorized persons making, using, or having in possession any frame, &c. for making paper of the kind herein described, or making, using, or publishing, &c. such paper, or causing the amount of any bank note, &c. to appear in the substance of the paper whereon the same shall be written or printed, &c. or assisting therein, &c. shall be guilty of felony, and be transported for 14 years. See the statute 13 G. 3. c. 79. post, § 3.: the provisions of which, however, appear to be superseded by this and the following acts.

stance of such paper; or if any person or persons (except as before excepted) after the said 24th June 1801 shall, by any art, mystery, or contrivance, cause or procure the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words, to appear visible in the substance of the paper whereon the same shall be written or printed, or shall knowingly aid or assist in causing the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words in Roman letters, to appear visible in the substance of the paper whereon the same shall be written or printed, every person or persons so offending in any of the cases aforesaid, and being convicted thereof according to Law, shall be adjudged a Felon, and shall be transported for the term of fourteen years. s. 1.

Not to extend to issuing bills or notes having the amount expressed in guineas, or in figures expressing the amount in pounds sterling.

Provided that nothing herein contained shall extend or be construed to extend to restrain any person or persons from issuing or negotiating any bill or bills of exchange, promissory note or promissory notes, having the sum or amount thereof expressed in guineas, or in a numerical figure or figures denominating the sum or amount thereof in pounds sterling, appearing visible in the substance of the paper upon which the same shall be written or printed, any thing herein contained to the contrary thereof in any wise notwithstanding. s. 3.

To what other paper this act shall not extend.

Provided also, that nothing in this act contained shall restrain or prevent any person or persons from making, using, vending, exposing to sale, publishing, or disposing of any paper having waiving or curved lines, or any other devices in the nature of water marks, visible in the substance of the paper, not being bar lines, or laying wire lines, provided the same are not contrived in such manner as to form the ground work or texture of the paper, or to imitate or resemble the waiving or curved laying wire lines or bar lines of the said new paper of the Governor and Company of the Bank of England, or to imitate or resemble the water-marks used by the Governor and Company of the Bank of England in the bank notes, bank bills of exchange, and bank post bills, issued by the said Governor and Company, any thing herein contained to the contrary thereof in anywise notwithstanding. s. 4.

Unauthorized persons engraving, &c. upon any plate any

And whereas the laws now in force do not inflict a sufficient punishment upon offenders concerned in engraving plates and printing blank forms for bank notes, bank bills of exchange, and

bank post bills, for the purpose of being made use of in perpetrating the crime of forgery; for remedy whereof be it enacted, that if any person or persons, from and after the passing of this act, shall engrave, cut, etch, scrape, or by any other means or device make, or shall cause or procure to be engraved, cut, etched, scraped, or by any other means or device made, or shall knowingly aid or assist in the engraving, cutting, etching, scraping, or by any other means or device making, in or upon any plate of copper, brass, steel, pewter, or of any other metal or mixture of metals, or upon any wood, or any other materials, or any plate whatsoever, any bank note, bank bill of exchange, bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, or part of a bank note, bank bill of exchange, or bank post bill, purporting to be the note, or bill of exchange, or bank post bill, or blank bank note, or blank bank bill of exchange, or blank bank post bill, or part of the note, or bill of exchange, or bank post bill of the Governor and Company of the Bank of England, without any authority in writing for that purpose from the said Governor and Company of the Bank of England; or shall use any such plate so engraved, cut, etched, scraped, or by any other means or device make, or shall use any other instrument or device for the making or printing any such bank note, bank bill of exchange, or bank post bill, or blank bank note, or blank bank bill of exchange, or blank bank post bill, or part of a bank note, or bank bill of exchange, or bank post bill, without such authority in writing as aforesaid; or if any person or persons shall, after the passing of this act, without such authority as aforesaid, knowingly have in his, her, or their custody any such plate, instrument, or device, or shall without such authority as aforesaid knowingly and wilfully utter, publish, dispose of, or put away any such bank note, bank bill of exchange, bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, or part of such bank note, bank bill of exchange, or bank post bill; every person so offending in any of the cases aforesaid, and being convicted thereof according to law, shall be adjudged a Felon, and shall be transported for the term of seven years. s. 6.

The statute 45 G. 3. c. 89. (s. 3.) enacts, that if any person or persons (other than the officers, workmen, servants, or agents for the time being of the Governor and Company of the Bank of England, to be authorized and appointed for that purpose by the said Governor and Company, and for the use of the said Governor and Company only) shall, from and after the passing of this act, make or use, or cause or procure to be made or used, or knowingly aid

Bank Note, &c. purporting to be of the Bank of England, or using any plate so engraved, &c. or by any means making or using any device, &c. for making, &c. any such Bank Note or part thereof, or knowingly having in possession, or uttering, &c. any such Plate or Bank Note, declared guilty of felony, and shall be transported for seven years.

§ 2.

Persons (except Officers of the Bank) making, or having in their possession, frames for making paper of the description herein mentioned, or having in

their possession
such paper,
transportation.

or assist in the making or using, or (without being authorized or appointed as aforesaid) shall knowingly have in his, her, or their custody or possession (without lawful excuse, the proof whereof shall lie upon the party accused) any frame, mould, or instrument for the making of paper with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved shape, or with any number, sum, or amount expressed in a word or words in Roman letters visible in the substance of such paper; or shall manufacture, make, use, vend, expose to sale, publish, or dispose of, or cause or procure to be manufactured, made, used, vended, exposed to sale, published or disposed of, or aid or assist in the manufacturing, making, using, vending, exposing to sale, publishing, or disposing of, or (without being authorized or appointed as aforesaid) shall knowingly have in his, her, or their custody or possession, any paper whatsoever with curved or waving bar lines, or with the laying wire lines thereof in a waving or curved state, or having any number, sum, or amount expressed in a word or words in Roman letters appearing visible in the substance of such paper; or if any person or persons (except as before excepted) shall, by any art, mystery, or contrivance, cause or procure the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words to appear visible in the substance of the paper whereon the same shall be written or printed, or shall knowingly aid or assist in causing the numerical sum or amount of any bank note, bank bill of exchange, or bank post bill, blank bank note, blank bank bill of exchange, or blank bank post bill, in a word or words in Roman letters to appear visible in the substance of the paper whereon the same shall be written or printed, every person or persons so offending in any of the cases aforesaid, and being convicted thereof according to Law, shall be adjudged a felon, and shall be transported for the term of fourteen years.

Not to restrain
the issue or nego-
ciation of bills
having the
amount expressed
in guineas, or
figures denoting
pounds.

Provided also, that nothing herein contained shall extend, or be construed to extend, to restrain any person or persons from issuing or negotiating any bill or bills of exchange, promissory note or promissory notes, having the sum or amount thereof expressed in guineas, or in a numerical figure or figures denoting the sum or amount thereof in pounds sterling, appearing visible on the substance of the paper upon which the same shall be written or printed; any thing herein contained to the contrary thereof in anywise notwithstanding. s. 4.

Persons allowed
to make paper
having waived
lines, not being

Provided also, that nothing in this act contained shall restrain or prevent any person or persons from making, using, vending, exposing to sale, publishing, or disposing of any paper having

waiving or curved lines, or any other devices in the nature of watermarks visible in the substance of the paper, not being bar lines, or laying wire lines, provided the same are not contrived in such manner as to form the groundwork or texture of the paper, or to imitate or resemble the waving or curved laying wire lines or bar lines of the said paper of the Governor and Company of the Bank of England, or to imitate or resemble the watermarks used by the Governor and Company of the Bank of England in the bank notes, bank bills of exchange, and bank post bills, issued by the said Governor and Company; any thing herein contained to the contrary thereof in anywise notwithstanding, s. 5.

bar lines, or laying wire lines, and not imitating the paper of the Bank.

If any person or persons, from and after the passing of this act, shall engrave, cut, etch, scrape, or by any other means or device make, or shall cause or procure to be engraved, cut, etched, scraped, or by any other means or device made, or shall knowingly aid or assist in the engraving, cutting, etching, scraping, or by any other means or device making, in or upon any plate of copper, brass, steel, pewter, or of any other metal or mixture of metals, or upon any wood or any other materials, or any plate whatsoever, any bank note, bank bill of exchange, bank post bill, or blank bank note, blank bank bill of exchange, or blank bank post bill, or part of a bank note, bank bill of exchange, or bank post bill, purporting to be the note, or bill of exchange, or bank post bill, or blank bank note, or blank bank bill of exchange, or blank bank post bill, or part of the note, or bill of exchange, or bank post bill of the Governor and Company of the Bank of England, without an authority in writing for that purpose from the said Governor and Company of the Bank of England; or shall use any such plate so engraved, cut, etched, scraped, or by any other means or device made, or shall use any other instrument or device for the making or printing any such bank note, bank bill of exchange, or bank post bill, or blank bank note, or blank bank bill of exchange, or blank bank post bill, or part of a bank note, or bank bill of exchange, or bank post bill, without such authority in writing as aforesaid; or if any person or persons shall, from and after the passing of this act, without such authority as aforesaid, knowingly have in his, her, or their custody, any such plate, instrument, or device, or shall, without such authority as aforesaid, knowingly and wilfully utter, publish, dispose of, or put away any such * blank bank note, blank bank bill of exchange, or blank bank post bill, or part of such bank note, bank bill of exchange, or bank post bill; every person so offending in any of the cases afore-

Punishment of persons engraving, &c. on any plate any Bank Note, or part thereof, or using any such plate, without the authority of the Bank, to be transportation.

* *Bank Note, Bank Bill of Exchange, Bank Post Bill*: these words appear to

be here omitted in this act. See 41 G. 3. (U. K.) c. 39. s. 6. ante.

Provisions to extend to every part of Great Britain.

§ 3.

Persons engraving, cutting, or etching, in mezzotinto, plates to resemble Inland Bills, Promissory Notes, Bills of Exchange, &c. with the words "Bank of England" in white letters on a black ground;

[See the Statute 52 G. 3. c. 138. post.]

or using such plates, &c.;

or wilfully having such plates in possession, or uttering such notes, &c.;

shall be imprisoned not exceeding six months.

said, and being convicted thereof according to law, shall be adjudged a Felon, and shall be transported for the term of fourteen years. s. 7.

All and every the clauses and provisions in this act contained shall extend, and be deemed and construed to extend, by all Courts, Judges, and Magistrates whatsoever, to every part of Great Britain; any thing herein-before contained, or any Law, Statute, or Usage to the contrary notwithstanding. s. 8.

Whereas unwary and other persons have taken in payment, and otherwise received; notes, inland bills, and bills of exchange, with certain words and characters so nearly resembling the notes and bills of the said Governor and Company, as to appear to such persons to be the notes or bills of the Bank of England, which, if continued to be done, will be to the great prejudice of public credit; be it therefore enacted, that from and after the 29th September 1773, if any person or persons, without being authorised and appointed as aforesaid, shall engrave, cut, etch, or scrape in mezzotinto, or shall cause or procure to be engraved, cut, etched, or scrapped in mezzotinto, or shall knowingly aid or assist in the engraving, cutting, etching, or scraping in mezzotinto, in or upon any plate of copper, brass, steel, pewter, or of any other metal or mixture of metals, or upon wood or any other material, or any plate whatsoever, any promissory note, inland bill, or bill of exchange, or blank promissory note, inland bill, or bill of exchange, or part of a promissory note, inland bill, or bill of exchange, containing the words Bank of England; or bank post bill, or any word or words expressing the sum or amount, or any part of the sum or amount of such promissory note, inland bill, or bill of exchange, in white letters or figures on a black ground; or shall use any such plate so engraved, cut, etched, or scraped in mezzotinto, or shall use any other instrument for the making or printing any such promissory note, inland bill, or bill of exchange, or blank promissory note, inland bill, or bill of exchange; or part of a promissory note, inland bill, or bill of exchange; if any person, without being authorised and appointed as aforesaid, shall, after the 25th December 1773, knowingly have in his, her, or their custody any such plate or instrument, or shall knowingly and wilfully utter or publish any such promissory note, inland bill, or bill of exchange, blank promissory note, inland bill, or bill of exchange, every such person so offending in any of the cases aforesaid, and being convicted thereof according to law, shall

be committed to the common gaol of the county or place where the offence shall be committed for any space not exceeding six months. 13 G. 3. c. 79. s. 2.

Provided always, that nothing herein contained shall extend or be construed to extend to such person or persons who, being at any time hereafter possessed of any such note or bill, shall only utter the same by carrying the same for payment to the issuer or issuers, drawer or drawers, acceptor or accepters, indorser or indorsers thereof respectively, or using proper means to compel the payment of any such note or bill. s. 9.

Not to extend to persons possessed of such notes carrying the same for payment, &c.

The Statute 52 G. 3. c. 138. reciting, that "divers frauds have been practised by making and publishing papers with certain words and characters so nearly resembling the notes and bills of the Governor and Company of the Bank of England, as to appear to ignorant and unwary persons to be the notes or bills of the said Governor and Company," and then "for prevention thereof," enacts, (by s. 5) that if any person, from and after 1st August 1812, shall engrave, cut, etch, scrape, or by any other means or device make, or shall cause or procure to be engraved, cut, etched, scraped, or by any other means or device made, or shall knowingly aid or assist in the engraving, cutting, etching, scraping, or by any other means or device making, in or upon any plate of copper, brass, steel, pewter, or of any other metal or mixture of metals, or upon wood, or any other materials, or upon any plate whatsoever; any word or words, figure or figures, character or characters, the impression taken from which shall resemble or be apparently intended to resemble the whole or any part of any of the notes or bills of the said Governor and Company, commonly called Bank Notes and Bank Post Bills, or shall contain any word, number, figure, or character in white on a black, sable, or dark ground, without an authority in writing for that purpose from the said Governor and Company, to be produced and proved by the party accused; or shall (without such authority as aforesaid) use any such plate, wood, or other material so engraved, cut, etched, scraped, or by any other means or device made, or shall use any other instrument or device for the making or printing upon any paper or other material any word or words, figure or figures, character or characters, which shall be apparently intended to resemble the whole or any part of any of the said notes or bills of the said Governor and Company, or any word, number, figure, or character in white on a black, sable, or dark ground; or if any person or persons shall, from and after 1st August 1812 (without such authority as aforesaid) knowingly

Persons engraving plates, the impression taken from which shall resemble Bank Notes, or having same in their custody, &c. guilty of felony.

have in his, her, or their custody any such plate, instrument, or device, or shall knowingly and wilfully utter, publish, or dispose of or put away any paper or other material containing any such word or words, figure or figures, character or characters as aforesaid, or shall knowingly or wittingly have in his, her, or their custody or possession any paper, or other material containing any such word or words, figure or figures, character or characters as aforesaid (without lawful excuse, the proof whereof shall lie upon the person accused); every person so offending, in any of the cases aforesaid, and being convicted thereof according to law, shall be adjudged a Felon, and shall be transported for the term of fourteen years.

Exceptions.

Nothing in this act contained shall apply to any paper or writing whatsoever (other than papers or writings resembling such notes or bills as aforesaid) containing an impression from any plate or plates, or other device whatsoever, with white letters upon black, sable, or dark ground, which shall previous to the passing of this act have been in the custody of any person or persons whatsoever. s. 6,

IV. *Receiving or paying any Bank Note or Bill for less than the Amount of lawful Money expressed therein.*

Nor shall Notes of the Bank of England be received or paid for less than the amount expressed therein.

The statute 51 G. 3. c. 127. intituled "An act for preventing any note or bill of the Governor and Company of the Bank of England from being received for any smaller sum than the sum therein specified," enacts, that no person shall by any means, device, shift, or contrivance whatsoever, receive or pay any note or notes, bill or bills of the Governor and Company of the Bank of England, for less than the amount of lawful money expressed therein, and to be thereby made payable, except only lawful discount on such note or bill as shall not be expressed to be payable on demand; and every person who shall offend herein shall be deemed and adjudged guilty of a Misdemeanor.

Notes of the Bank of England, or Ireland, shall not be received or paid for less than their value.

By the statute 52 G. 3. c. 50. (1) "to continue and amend" the statute 51 G. 3. c. 127. and to extend the same to Ireland, it is enacted (by s. 5.) that no person shall by any means, device, shift, or contrivance whatsoever, receive or pay in Great Britain any note or notes, bill or bills of the Governor and Company of the Bank of England, or receive or pay in Ireland any note or notes, bill or bills of the Governor and Company of the Bank of Ireland, for less than the amount of lawful money ex-

(1) See the provisions of this act at length, under title COIN, III. ii.

pressed therein, and to be thereby made payable; except only lawful discount on such note or bill as shall not be expressed to be payable on demand; and every person who shall offend herein, shall be deemed and adjudged guilty of a Misdemeanor, and being thereof convicted by due course of law shall be subject to a fine of double the amount of the sum of money specified in such bill or note, and made payable thereby, and shall suffer imprisonment for a time not exceeding two months.

The above statute of 52 Geo. 3. c. 50. was to continue till three months after the commencement of the next session of parliament; but was by the statute 53 Geo. 3. c. 5. further continued till 25th March 1814, and having been suffered to expire, was finally, by statute 54 Geo. 3. c. 52. revived and continued generally during the continuance of any act imposing any restriction on the Governor and Company of the Bank of England with respect to payments in cash.

V. Clerks, &c. of the Bank making out or delivering, &c. any false Dividend Warrant.

The statute 35 G. 3. c. 66. (1) s. 10. recites, that "in order to cover and conceal forgeries and frauds in transfers, Dividend Warrants have been sometimes made out for different sums than the sums really due," and enacts, that if any clerk, officer, or servant of, or other person or persons employed or entrusted by the said Governor and Company (2); shall from and after the passing of this act knowingly or wilfully make out or deliver, or cause or procure to be made out or delivered, or wilfully act or assist in the making out or delivering of any dividend warrant, or warrant for payment of any annuity or interest, or money payable in pursuance of this act, at the Bank of England, for a greater or less amount than the person or persons on whose behalf or pretended behalf such dividend warrant or warrant for payment of any annuity or interest, or money payable as aforesaid, shall be made out is or are entitled to, with intent to defraud the said Governor and Company of the Bank of England, or any other body politic or corporate, or any person or persons whatsoever, all and every such person or persons so offending, being in due form of Law convicted of any

Clerks, &c. of the Bank making out, &c. false Dividend Warrants trans-
portable.

(1) For making certain annuities created by the Parliament of Ireland transferrable, and the dividends payable, at the Bank of England.

(2) "Of the Bank of England," see the act.

such offence or offences as aforesaid, shall be transported for seven years.

The statute 37 G. 3. c. 46. (which is made for similar purposes as the former) contains (by s. 10.) an enactment verbatim the same as the above.

Bankers.

Unauthorized persons making or using any frame, &c. for making paper with the name, &c. of any Banker appearing visible in the substance of the paper, or making or vending such paper, shall, for first offence, be imprisoned not exceeding two years, and for the second, be transported.

The statute 41 G. 3. (U. K.) c. 57. intituled "An act for the better prevention of the Forgery of the Notes and Bills of Exchange of persons carrying on the business of Bankers," recites, that "it is expedient to prevent the crime of Forgery in all parts of the United Kingdom of Great Britain and Ireland," and enacts, that if any person or persons, in any part of the United Kingdom of Great Britain and Ireland, from and after 10 July 1801, shall make, or cause or procure to be made, or knowingly aid or assist in the making or using of any frame, mould, or part of any frame or mould for the making of paper, with the name or firm appearing visible in the substance of the paper of any person or persons, Body Corporate or other Banking Company or Partnership carrying on the business of Bankers, without an authority in writing for that purpose, from such person or persons, Body Corporate, or other Banking Company or Partnership, or from some person or persons duly authorized to give such authority; or shall manufacture, make, vend, expose to sale, publish, or dispose of, or cause or procure to be manufactured, made, vended, or exposed to sale, published or disposed of, any paper having the name or firm appearing visible in the substance of the paper, of any person or persons, Body Corporate, or other Banking Company or Partnership whatsoever, carrying on the business of Bankers; or if any person or persons, without such authority, shall, by any art, means, mystery, or contrivance, cause or procure, or shall knowingly aid or assist in causing or procuring the name or firm of any person or persons, Body Corporate, or other Banking Company or Partnership, carrying on the business of Bankers, to appear visible in the substance of the paper whereon the same shall be written or printed; every person or persons so offending in any of the cases aforesaid, and being convicted thereof according to Law, shall for the first offence be imprisoned for any time not exceeding two years, nor less than six months, and for the second offence be transported to any of his Majesty's Colonies or plantations, for the term of seven years: s. 1.

If any person or persons, in any part of the United Kingdom of Great Britain and Ireland, from and after the said 10th July 1801, shall engrave, cut, etch, scrape, or by any other means or device make, or shall cause or procure to be engraved, cut, etched, scraped, or by any other means or device made, or shall knowingly aid or assist in the engraving, cutting, etching, scraping, or by any other means or device making, in or upon any plate whatsoever, any Bill of Exchange, Promissory Note, or other Note for the payment of money, or part of any Bill of Exchange, Promissory Note, or other Note for the payment of money, purporting to be the Bill of Exchange, Promissory Note, or other Note for the payment of money, of any person or persons, Body Corporate, Banking Company or Partnership, carrying on the business of Bankers, without an authority in writing for that purpose from such person or persons, Body Corporate, Banking Company or Partnership, or some person or persons duly authorized to give such authority; or shall use any such plate so engraved, cut, etched, scraped, or by any other means or device made, or shall use any other device for the making or printing any such Bill of Exchange, Promissory Note, or other Note for the payment of money, without such authority in writing as aforesaid; or if any person or persons shall, after the said 10th July 1801, without such authority as aforesaid, knowingly have in his, her, or their custody any such plate or device, or shall, without such authority as aforesaid, knowingly and wilfully publish, dispose of, or put away any such Bill of Exchange, Promissory Note, or other Note for the payment of money, or part of such Bill of Exchange, Promissory Note, or other Note for the payment of money; every person so offending in any of the cases aforesaid, and being convicted thereof according to law, shall for the first offence be imprisoned for any time not exceeding two years, nor less than six months, and for the second offence be Transported to any of his Majesty's colonies or plantations for the term of seven years. s. 2,

The like punishment on unauthorized persons engraving, &c. any note, &c. of any banker, or using any plate so engraved, &c. or any device, &c. or having such plate in possession, or uttering such note, &c.

If any person or persons, in any part of the United Kingdom of Great Britain and Ireland, from and after 10th July 1801, shall engrave, cut, or etch, or by any other means or contrivance trace with a hair stroke or other mode of delineation, on any plate whatsoever, any of the subscriptions subjoined to any Bill of Exchange, Promissory Note, or other Note for the payment of money, of any person or persons, Body Corporate, or other Banking Company or Partnership, carrying on the business of

Persons engraving, &c. on any plate any subscription to any bill, &c. of any person or banking company, or having in possession any such plate, shall, for first offence, be imprisoned not

exceeding three years, and for the second, be transported.

Bankers, to be payable to bearer on demand; or shall have in his, her, or their possession any plate with the hair strokes or other delineation of any subscription traced thereon, subjoined to any Bill of Exchange, Promissory Note, or other Note for the payment of money, purporting to be the Bill of Exchange and Promissory Note, or other Note for the payment of money, of any person or persons, Body Corporate, or other Banking Company or Partnership, carrying on the business of Bankers, and to be payable to the Bearer on demand, and shall not be able to prove that such plate came into his, her, or their possession without his or, her, their knowledge or consent, every person so offending in any of the cases aforesaid, and being convicted thereof according to law, shall for the first offence be imprisoned for any time not exceeding three years, nor less than twelve months; and for the second offence be Transported to any of His Majesty's colonies or plantations for the term of seven years. a. 3.

Bankrupts.

The statute 5 G. 2. c. 30. (made perpetual by 84 G. 3. c. 124.) "to prevent the committing of frauds by Bankrupts," recites, that "Commissions of Bankrupt have been issued against several persons not long before and since the expiration of the Statute made in the fifth year of his late Majesty's reign, intituled *An act for the better preventing Frauds committed by Bankrupts*, and such persons have been declared Bankrupts by the Commissioners by such Commissions authorized; and yet several of such Bankrupts, by reason of the expiration of the said Statute, have not only refused to surrender themselves to the Commissioners, and to discover and deliver up their estate and effects to the said Commissioners for the benefit of their Creditors, but have carried away and concealed the same in such manner that the said Commissioners have not been able to seize the same, to the manifest wrong and injury of their Creditors, and to the great discouragement of trade: And whereas many evil-minded persons have, since the expiration of the said Statute, bought and taken, upon trust and credit, divers great quantities of goods, wares, and merchandizes, and have thereby, and by their extravagant manner of living and otherwise, contracted great debts, and having gotten such goods and effects into their custody, have sold or pawned the same for less than the value thereof, and thereby raised ready money, and have withdrawn themselves from their usual places of abode, with their effects, into secret places, in order to oblige

their Creditors to accept of such composition for their respective debts as such evil-minded persons think fit to offer, or have carried away their effects beyond the Seas, whereby their Creditors have been totally deprived of their debts : And whereas many persons have and do daily become Bankrupts, not so much by reason of losses and unavoidable misfortunes, as to the intent to oblige their Creditors to accept such their unjust proffers and composition, and to defraud and hinder their Creditors of their just debts ;” and then “to remedy the said abuses, and to supply the defects and inconveniences of former Laws relating to Bankrupts,” enacts, that if any person or persons who, since the fourteenth day of May which was in the year of our Lord 1729, hath or have become Bankrupt, or who shall at any time hereafter during the continuance of this Act become Bankrupt, within the intent and meaning of the several Statutes made and now in force concerning Bankrupts, or any of them, and against whom a Commission of Bankrupt under the Great Seal of Great Britain hath, since the said fourteenth day of May 1729, been awarded and issued out, or shall at any time hereafter be awarded and issued out, whereupon the person or persons against whom such Commission hath issued or shall issue have or hath been or shall be declared Bankrupt or Bankrupts, shall not within forty-two days after notice thereof in writing, to be left at the usual place of abode of such person or persons, or personal notice in case such person or persons be then in prison, and notice given in the *London Gazette*, that such Commission or Commissions is, are, or have been issued, and of the time and place of a Meeting of the Commissioners therein named, or the major part of them, surrender him, her, or themselves to the said Commissioners named in the said Commission, or the major part of them, and sign or subscribe such surrender, and submit to be examined from time to time upon Oath, or being of the people called *Quakers*, upon the solemn affirmation by Law appointed for such people, by and before such Commissioners, or the major part of them, by such Commission authorized, and in all things conform to the several Statutes already made and now in force concerning Bankrupts ; and also, upon such his, her, or their examination, fully and truly disclose and discover all his, her, or their effects and estate, real and personal, and how and in what manner, to whom and upon what consideration, and at what time or times, he, she, or they have or hath disposed of, assigned, or transferred any of his, her, or their goods, wares, merchandizes, monies, or other estate and effects (and all books, papers, and writings relating there-

Bankrupts not surrendering and submitting to be examined, or removing, concealing, or embezzling their effects to the value of £20, with intent to defraud their creditors, declared guilty of felony without clergy.

Goods of such convicts shall be divided amongst the creditors.

unto), of which he, she, or they was or were possessed, or in or to which he, she, or they was or were any ways interested or intitled, or which any person or persons had, or hath, or have had in trust for him, her, or them, or for his, her, or their use, at any time before or after the issuing of the said Commission, or whereby such person or persons, or his, her, or their family or families, hath or have or may have, or expect any profit, possibility of profit, benefit, or advantage whatsoever; except only such part of his, her, or their estate and effects as shall have been really and *bona fide* before sold or disposed of in the way of his, her, or their trade and dealings; and except such sums of money as shall have been laid out in the ordinary expence of his, her, or their family or families; and also upon such examination deliver up unto the said Commissioners by the said Commission authorized, or the major part of them, all such part of his, her, or their the said Bankrupt's goods, wares, merchandizes, money, estate, and effects, and all books, papers, and writings relating thereunto, as at the time of such examination shall be in his, her, or their possession, custody, or power (his, her, or their necessary wearing apparel, and the necessary wearing apparel of the wife and children of such Bankrupt only excepted); then he, she, or they the said Bankrupt or Bankrupts, in case of any default and wilful omission in not surrendering and submitting to be examined as aforesaid, or in case he, she, or they shall remove, conceal, or embezzle any part of such his, her, or their estate, real or personal, of the value of twenty pounds, or any books of account, papers, or writing relating thereto, with an intent to defraud his, her, or their Creditors (and being thereof lawfully convicted by Judgment or Information), shall be deemed and adjudged to be guilty of Felony, and shall suffer as Felons without benefit of Clergy, or the benefit of any Statute made in relation to Felons; and in such cases such Felon's goods and effects shall go and be divided amongst the Creditors seeking relief under such Commission; any Law, Usage, or Custom to the contrary thereof in anywise notwithstanding. s. 1.

Bigamy.

Concerning men twice married, called Bigami, whom the Bishop of Rome, by a Constitution made at the Council of Lyons, hath excluded from all Clerks' Privilege, whereupon certain Prelates, (when such persons have been attainted for Felons) have prayed for to have them delivered as Clerks which

were made Bigami before the same Constitution; it is agreed and declared before the King and his Council, that the same Constitution shall be understood in this wise, that whether they were Bigami before the same Constitution, or after, they shall not from thenceforth be delivered to the Prelate, but Justice shall be executed upon them, as upon Lay People. 4 Ed. 1. st. 3. c. 5. (And see Title POLYGAMY.)

Clerks being guilty of Bigamy shall not be delivered to the Prelate, but have justice executed upon them.

Black Act.

The statute 9 G. 1. c. 22. intituled "An act for the more effectual punishing wicked and evil-disposed persons going Armed in Disguise, and doing injuries and violences to the persons and properties of his Majesty's subjects, and for the more speedy bringing the offenders to justice," (made perpetual by 31 G. 2. c. 42. s. 2.) recites, that whereas several ill-designing and disorderly persons have of late associated themselves under the name of *Blacks*, and entered into confederacies to support and assist one another in stealing and destroying of Deer, robbing of Warrens and Fish-ponds, cutting down Plantations of Trees, and other illegal Practices, and have in great numbers, armed with swords, fire-arms, and other offensive weapons, several of them with their faces blacked or in disguised habits, unlawfully hunted in Forests belonging to his Majesty, and in the Parks of divers of his Majesty's subjects, and destroyed, killed, and carried away the Deer, robbed Warrens, Rivers, and Fish-ponds, and cut down Plantations of Trees; and have likewise solicited several of his Majesty's subjects, with promises of money or other rewards, to join with them, and have sent Letters in fictitious names to several persons, demanding venison and money, and threatening some great violence if such their unlawful demands should be refused, or if they should be interrupted in or prosecuted for such their wicked practices, and have actually done great damage to several persons, who have either refused to comply with such demands, or have endeavoured to bring them to justice, to the great terror of his Majesty's peaceable subjects: For the preventing of which wicked and unlawful practices, it is enacted, that if any person or persons, from and after the first day of June 1723, being armed with swords, fire-arms, or other offensive weapons, and having his or their faces blacked, or being otherwise disguised, shall appear in any Forest, Chase, Park, Paddock, or grounds inclosed with any wall, pale, or other fence, wherein any Deer have been or shall be usually

Persons armed and having their faces blacked, or being otherwise disguised, appearing in any forest, &c. where deer are kept;

or hunting, or stealing deer, or robbing any warren, &c. or stealing fish in any river, &c.;

or hunting deer being in an inclosed place;

or breaking down the head, &c. of fish-ponds, &c. or killing or maiming any cattle, or cutting down, &c. trees planted in an avenue, &c. or setting fire to any house, &c. or maliciously shooting at any person;

or sending any letter demanding money, &c.;

or forcibly rescuing any person in custody for any such offences; or by gift or promise procuring any one to join in any such unlawful act, shall be guilty of felony without benefit of clergy.

Proclamations may be issued requiring offenders to surrender in forty days.

kept, or in any Warren or place where Hares or Conies have been or shall be usually kept, or in any High Road, Open Heath, Common, or Down; or shall unlawfully and wilfully hunt, wound, kill, destroy, or steal any Red or Fallow Deer, or unlawfully rob any Warren or place where Conies or Hares are usually kept, or shall unlawfully steal or take away any Fish out of any River or Pond; or if any person or persons, from and after the said first day of June, shall unlawfully and wilfully hunt, wound, kill, destroy, or steal any Red or Fallow Deer fed or kept in any places in any of his Majesty's Forests or Chases, which are or shall be inclosed with pales, rails, or other fences, or in any Park, Paddock, or grounds inclosed, where Deer have been or shall be usually kept; or shall unlawfully and maliciously break down the Head or Mound of any Fish-pond, whereby the Fish shall be lost or destroyed; or shall unlawfully and maliciously kill, maim, or wound any Cattle, or cut down or otherwise destroy any Trees planted in any Avenue, or growing in any Garden, Orchard, or Plantation, for Ornament, Shelter, or Profit; or shall set fire to any house, barn, or out-house, or to any hovel, cock, mow, or stack of corn, straw, hay, or wood; or shall wilfully and maliciously Shoot at any person in any dwelling-house or other place; or shall knowingly send any Letter without any Name subscribed thereto, or signed with a Fictitious Name, demanding money, venison, or other valuable thing; or shall forcibly Rescue any person, being lawfully in custody of any Officer or other person for any of the offences before mentioned; or if any person or persons shall, by Gift or promise of money or other reward, procure any of his Majesty's subjects to join him or them in any such unlawful act; every person so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in cases of Felony without Benefit of Clergy. s. 1.

And for the more easy and speedy bringing the Offenders against this Act to Justice, be it enacted, that if any person or persons shall be charged with being guilty of any of the offences aforesaid, before any two or more of his Majesty's Justices of the Peace of the County where such offence or offences were or shall be committed, by information of one or more credible person or persons upon oath by him or them to be subscribed, such Justices before whom such information shall be made as aforesaid, shall forthwith certify under their hands and seals, and return such Information to one of the Principal Secretaries of State of his Majesty, his heirs or successors, who

is hereby required to lay the same, as soon as conveniently may be, before his Majesty, his heirs or successors, in his or their Privy Council, whereupon it shall and may be lawful for his Majesty, his heirs or successors, to make his or their Order in his or their said Privy Council, thereby requiring and commanding such offender or offenders to surrender him or themselves within the space of forty days, to any of his Majesty's Justices of the Court of King's Bench, or to any one of his Majesty's Justices of the Peace, to the end that he or they may be forthcoming to answer the offence or offences wherewith he or they shall so stand charged, according to due course of Law; which Order shall be printed and published in the next London Gazette, and shall be forthwith transmitted to the Sheriff of the County where the offence shall be committed, and shall, within six days after the receipt thereof, be proclaimed by him or his officers, between the hours of ten in the morning and two in the afternoon, in the market places upon the respective market days of two market towns in the same county near the place where such offence shall have been committed; and a true copy of such Order shall be affixed upon some public place in such market towns; and in case such offender or offenders shall not surrender him or themselves pursuant to such Order of his Majesty, his heirs or successors, to be made in Council as aforesaid, he or they so neglecting or refusing to surrender him or themselves as aforesaid, shall, from the day appointed for his or their surrender as aforesaid, be adjudged, deemed, and taken to be convicted and attainted of Felony, and shall suffer pains of Death as in case of a person convicted and attainted by verdict and judgment of Felony, without Benefit of Clergy; and that it shall be lawful to and for the Court of King's Bench, or the Justices of Oyer and Terminer or General Gaol Delivery for the county where the offence is sworn in such information to have been committed, upon producing to them such Order in Council, under the Seal of the said Council, to award execution against such offender and offenders, in such manner as if he or they had been convicted and attainted in the said Court of King's Bench, or before such Justices of Oyer and Terminer, or General Gaol Delivery respectively. s. 4.

Persons not surrendering upon such proclamation adjudged attainted of felony, without benefit of clergy.

All and every person and persons who shall, after the time appointed as aforesaid, for the surrender of any person or persons (1) so charged upon oath with any the offences aforesaid,

Accessories after the fact to offenders who have been proclaimed, ousted of Clergy.

(1) 2d February 1722.

be expired, conceal, aid, abet, or succour such person or persons, knowing him or them to have been so charged as aforesaid, and to have been required to surrender him or themselves by such order or orders as aforesaid, being lawfully convicted thereof, shall be guilty of Felony, and shall suffer Death as in cases of Felony, without Benefit of Clergy. s. 5.

The Hundred shall make good all damages done by offenders against this act,

not exceeding
£200.

How the tax on
the Hundred
shall be levied.

Hundred not
liable unless in-
formation is
given to a Justice
within a certain
time of such
offences being
committed.

From and after the 1st June 1723, the Inhabitants of every Hundred, within that part of the Kingdom of Great Britain called England, shall make full satisfaction and amends to all and every the person and persons, their executors and administrators, for the damages they shall have sustained or suffered by the killing or maiming of any cattle, cutting down or destroying any trees, or setting fire to any house, barn, or outhouse, hovel, cock, mow, or stack of corn, straw, hay, or wood, which shall be committed or done by any offender or offenders against this act; and that every person and persons who shall sustain damages by any of the offences last mentioned, shall be and are hereby enabled to sue for and recover such his or their damages, the sum to be recovered not exceeding the sum of £200, against the Inhabitants of the said Hundred, who by this act shall be made liable to answer all or any part thereof; and that if such person or persons shall recover in such action, and sue execution against any of such Inhabitants, all other the Inhabitants of the Hundred, who by this act shall be made liable to all or any part of the said damage, shall be ratably and proportionably taxed for and towards an equal contribution for the relief of such Inhabitant, against whom such execution shall be had and levied; which tax shall be made, levied, and raised by such ways and means, and in such manner and form, as is prescribed and mentioned for the levying and raising damages recovered against Inhabitants of Hundreds in cases of robberies, in and by an act (intituled, An act for the following Hue and Cry) made in the twenty-seventh year of the Reign of Queen Elizabeth. s. 7.

No person or persons shall be enabled to recover any damages by virtue of this act, unless he or they, by themselves or by their servants, within two days after such damage or injury done him or them by any such offender or offenders, as aforesaid, shall give notice of such offence done and committed unto some of the Inhabitants of some Town, Village, or Hamlet near unto the place where any such fact shall be committed, and shall, within four days after such notice, give in his, her, or their examination upon oath, or the examination upon oath of his,

her, or their servant or servants that had the care of his or their houses, outhouses, corn, hay, straw, or wood, before any Justice of the Peace of the County, Liberty, or Division where such fact shall be committed, inhabiting within the said Hundred where the said fact shall happen to be committed, or near unto the same, whether he or they do know the person or persons that committed such fact, or any of them; and if upon such examination it be confessed that he or they do know the person or persons that committed the said fact, or any of them, that then he or they so confessing, shall be bound by recognizance to prosecute such offender or offenders, by indictment or otherwise, according to the Laws of this Realm. s. 8.

Offenders being known, shall be prosecuted.

Where any offence shall be committed against this act, and any one of the said offenders shall be apprehended, and lawfully convicted of such offence, within the space of six months after such offence committed, no Hundred, or any Inhabitants thereof, shall in any wise be subject or liable to make any satisfaction to the party injured, for the damages he shall have sustained; any thing in this act to the contrary notwithstanding. s. 9.

If any one offender against this act shall be convicted, the Hundred shall not be liable.

No person who shall sustain any damage by reason of any offence to be committed by any offender contrary to this act shall be hereby enabled to sue, or bring any action against any Inhabitants of any Hundred where such offence shall be committed, except the party or parties sustaining such damage shall commence his or their action or suit within one year next after such offence shall be committed. s. 10.

Actions against the Hundred shall be commenced within one year.

And for the better and more effectual discovery of the offenders above mentioned, and bringing them to justice, be it enacted, that it shall and may be lawful to and for any Justice of the Peace to issue his warrant to any Constable, Headborough, or other Peace Officer, thereby authorizing such Constable, Headborough, or other Peace Officer, to enter into any house, in order to search for venison stolen or unlawfully taken, contrary to the several statutes against Deer Stealers, in such manner as by the Laws of this Realm such Justice of the Peace may issue his warrant to search for stolen goods. s. 11.

One Justice may issue his warrant to search houses for venison stolen or unlawfully taken.

If any person or persons shall apprehend, or cause to be convicted, any of the offenders above mentioned, and shall be killed, or wounded so as to lose an eye, or the use of any limb, in apprehending or securing, or endeavouring to apprehend or secure any of the offenders above mentioned, upon proof thereof made at the General Quarter Sessions of the Peace for the County, Liberty, Division, or place where the offence was or

Persons wounded, so as to lose an eye, &c. and the executors of persons killed in endeavouring to secure offenders against this act, shall receive £50.

To be paid By
the Sheriff within
30 days.

Penalty on
Sheriff not paying
same.

Offenders may
be prosecuted in
any County in
England.

Attainder not to
work Corruption
of Blood, &c.

Act shall be
read at every
Quarter Ses-
sions, Leet, &c.

shall be committed, or the party killed or receive such wound, by the person or persons so apprehending and causing the said offender to be convicted, or the person or persons so wounded, or the executors or administrators of the party killed, the Justices of the said Sessions shall give a certificate thereof to such person or persons so wounded, or to the executors or administrators of the person or persons so killed, by which he or they shall be entitled to receive of the Sheriff of the said County the sum of £50, to be allowed the said Sheriff in passing his accounts in the Exchequer; which sum of £50 the said Sheriff is hereby required to pay within thirty days from the day on which the said certificate shall be produced and shewn to him, under the penalty of forfeiting the sum of £10 to the said person or persons to whom such certificate is given; for which said sum of £10, as well as the said sum of £50, such person may and is hereby authorized to bring an action upon the case against such Sheriff, as for money had and received to his or their use. s. 12.

And for the better and more impartial Trial of any Indictment or Information, which shall be found, commenced, or prosecuted for any the offences committed against this act, be it enacted, that every offence that shall be done or committed contrary to this act, shall and may be inquired of, examined, tried, and determined in any County within that part of the Kingdom of Great Britain called England, in such manner and form as if the fact had been therein committed: Provided, that no attainder for any of the offences made Felony by virtue of this act, shall make or work any corruption of blood, loss of dower, or forfeiture of lands or tenements, goods or chattels. s. 14.

This act shall be openly read at every Quarter Sessions, and at every Leet or Law Day. s. 15.

Bridges (DAMAGING).

Persons destroy-
ing or damaging
Westminster
Bridge, or any
part thereof, or
the Works
thereto belong-
ing, shall be
guilty of Felony
without Clergy.

The statute 9 G. 2. c. 29. intituled "An act for building a Bridge across the River Thames, from the New Palace Yard, in the City of Westminster, to the opposite Shore, in the County of Surrey," enacts, that if any person shall wilfully and maliciously pull down or destroy the said Bridge, or any part thereof, or attempt so to do, or unlawfully and without authority from the said Commissioners or their Assessors, remove or take away any works thereto belonging, or in any wise direct or procure

the same to be done, whereby the said Bridge or the works thereof may be damaged, or the lives of the passengers endangered; such offender or offenders, being lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy. s. 5.

In numerous instances the Destroying or Damaging Bridges is made Felony, in some cases with, in others without Benefit of Clergy; but as the offences are merely local, and frequently created by local and personal acts, they have not been inserted in this collection. A short list, however, is subjoined of some out of these acts.

London Bridge	-	-	31 G. 2. c. 20. s. 6.
Westminster Bridge	-	-	9 G. 2. c. 29. s. 5.
Blackfriars	-	-	29 G. 2. c. 86.
Fulham	-	-	12 G. 1. c. 36. s. 3.
Old Brentford	-	-	{ 30 G. 2. c. 63. s. 19. 31 G. 2. c. 48.
Hampton Court	-	-	23 G. 2. c. 37. s. 12.
Sandwich	-	-	28 G. 2. c. 55.
Walton	-	-	20 G. 2. c. 22. s. 3.
Ribble	-	-	24 G. 2. c. 36.
Trent	-	-	31 G. 2. c. 59.
Wye	-	-	29 G. 2. c. 73. s. 5.
Ouse	-	-	29 G. 2. c. 73.
Jeremy's Ferry Bridge	-	-	{ 30 G. 2. c. 59. 18 G. 3. c. 10.

Buckingham.

Whereas for many years past it has been usual in the Administration of Justice to his Majesty's Subjects residing at the different ends of the County of Buckingham, which is of great length, to appoint the Summer Assises at the County Town of Buckingham, and the Winter Assises at Alesbury; and whereas the usage was unnecessarily broken in upon in last Summer: and whereas it will tend to preserve the peace and quiet of the County, to fix the distribution of Justice in its usual channel, within the said County; be it therefore enacted, that after 1st June 1748, all the Commissions of Assise and *Nisi Prius*, and all General Commissions of Oyer and Terminer, and all Commissions of General Gaol Delivery, which shall be appointed to be held and executed for the said County next after the

The Assises shall be held at the town of Buckingham, and no other place.

Term of Holy Trinity, shall be held and executed in each year at and in the said Town of Buckingham, and at no other place within the said County of Buckingham; any Law, Statute, Usage, matter, or thing to the contrary notwithstanding. 21 G. 2. c. 12.

Except in cases of exigencies, when they may be held at some other convenient place in that County.

Provided and it is hereby enacted and declared, that if at any time hereafter the said Town of Buckingham shall be wholly unfit for holding the Assises there, by accident of fire, or by means of any contagious or epidemical distemper, or by any other unforeseen cause or exigency, to be made appear before the Lord High Chancellor, or Lord Keeper, or Lords Commissioners for keeping the Great Seal of Great Britain for the time being; that then and in such cases only, it shall and may be lawful to and for the Lord High Chancellor, or Lord Keeper, or Lords Commissioners for keeping the Great Seal of Great Britain for the time being, with the advice of the Justices of Assise, from time to time, in and during the continuance of such respective Exigencies only, and for and at no other time or times, to appoint another convenient place within the said County for holding the said Assises, instead of the said Town of Buckingham; any thing in this present act contained to the contrary notwithstanding. s. 2.

Buggery.

Buggery made Felony without Clergy.

3 Inst. 59.

1 Hawk. P. C. 6.

1 Hale, P. C. 669.

Coke, 391.

For the condign punishment of this detestable and abominable vice, it is enacted, that the same Offence be from henceforth adjudged Felony, and such order and form of process therein to be used against the Offenders as in cases of Felony at the Common Law; and that the Offenders, being thereof convict by Verdict, Confession, or Outlawry, shall suffer such Pains of Death, and losses and penalties of their goods, chattels, debts, lands, tenements, and hereditaments, as Felons be accustomed to do according to the order of the Common Law; and that no person offending in any such offence shall be admitted to his Clergy; and that Justices of Peace shall have power and authority to hear and determine the said Offence, as they do use to do in cases of other Felonies. 25 H. 8. c. 6.

The above statute was repealed by statute 1 M. st. 1. c. 1., but revived and made perpetual by 5 Eliz. c. 17.

Bullion and Plate:

- I. *The Standard of Gold and Silver.*
- II. *Counterfeiting Bullion and the Marks thereon.*
- III. *Exportation of Bullion and Plate.*
- IV. *Illegal Sale or Possession of Bullion.*
- V. *Gilding or silvering certain Copper or Latten Wares.*



I. *The Standard of Gold and Silver.*

By statute 28 Ed. 1. st. 3. c. 20. no Goldsmith shall make any vessel, jewel, or any other thing of gold or silver, except it be of good and true allay; viz. gold not worse than the touch of Paris, and silver of sterling allay or of better; and that the same shall be assayed by the Wardens of the Goldsmiths' Company, and marked with the Leopard's head, and any such made otherwise shall be seised; and if he be attainted of the fact, he shall be punished by imprisonment, and ransom at the King's pleasure.

§ 1.

The Standard of Gold and Silver Wares.

By statute 17 Ed. 4. c. 1. it is provided, that no Goldsmith shall sell any gold under the fineness of eighteen Carrats (1), nor silver under the allay of sterling.

§ 2.

No Finer of gold and silver, nor Parter of the same by fire or water, from henceforth allay any fine silver or gold, ne none sell in any otherwise, ne to any person or persons; but only to the Officers of Mints, Changes, and Goldsmiths within this Realm, for augmentation and amending of Coin and Plate; and that the Master of Mints, Changes, and Goldsmiths, for all such fine gold or silver coming to them, to answer the value as it is worth, according as it is now and hath been in antient time accustomed, after the rate of fineness; ne that no Finer nor Finers, Parter nor Parters, sell to no person, neither to one nor to other, any manner of silver into mass molten and allayed, upon pain of forfeiture of the same, the King thereof to have one half, and the Finder that can prove, and will sue for it in the King's Exchequer, the other half. And if any Finer or Finers, Parter or Parters of gold and silver, either by fire or water, allay or sell any manner fine gold or silver otherwise than it is ordained in this act, he or they to lose the value of the same gold or silver so allayed or sold, the King to have the one half, and the Finder the other. Also all such fine silver as shall be parted and fined as is aforesaid,

§ 3.

Allaying Gold and Silver.

Of what fineness Gold and Silver shall be.

(1) See post, statute 39 G. 3. c. 69. under § 6. of this division.

Finers shall put
their Mark on
the Plate.

For what pur-
poses Silver
may be melted.

Silver molten
into Mass shall
not be sold.

that it be made so fine that it may bear twelve pennyweight of allay in a pound weight, and yet it be as good as sterling, and rather better than worse; and that every Finer put his several mark upon such fine silver, to bear witness of the same to be true as is aforesaid, upon the pain of the value found contrary to be forfeit, the King to have one half, and the Finder the other. And that no Goldsmith within this Realm melt or allay any fine silver to be for any works or other intent, but only for making of Amels for divers works of goldsmithery, and for amending of plate, to make it as good as sterling or better, for the common weal of this Realm. 4 H. 7. c. 2.

Nor that they sell no fine silver nor other silver allayed, molten into mass, to any person whatsoever they be, nor one Goldsmith to another. This ordinance to be kept by the Goldsmiths in every point, upon pain of forfeiture of the same silver or the value thereof, the King to have one half, and the Finder the other half. s. 2.

The statute 18 Eliz. c. 15. enacts, that the Goldsmith's Wares shall be not less in fineness than 22 carrats of Gold, nor of Silver less than 11 ounces 2 pennyweights.

§ 4.

The statute 6 G. 1. c. 11. recites, that it may be necessary for encouraging the several manufactures of Wrought Plate, to continue both the Standard of Plate of eleven ounces ten pennyweight Troy, and also the Standard of eleven ounces two pennyweight Troy, for the better accommodating the buyers of Plate, and the workers and dealers therein; and then enacts (s. 41.) that from and after 1 June 1720, all silver vessels of Plate, or manufactured of silver, shall not be made less in fineness than that of eleven ounces ten pennyweight of fine silver in every pound Troy, or of silver less in fineness than eleven ounces two pennyweight of fine silver in every pound Troy, which two different standards of Wrought Plate shall be severally and respectively marked with distinguishing marks, that is to say, vessels made of Silver Plate or manufactured silver, not less in fineness than eleven ounces ten pennyweight of fine silver in every pound Troy, to be marked with the workman's mark, the mark of the Wardens of the mystery or craft of the Goldsmiths, and with the figure of a Lion's head erased, and the figure of a woman called the Britannia. And all vessels of Silver Plate or manufactured silver, not less in fineness than eleven ounces two pennyweights of fine silver in every pound Troy, and under the degree of eleven ounces ten pennyweight of fine silver in every pound Troy, shall be

The two different
standards of
wrought or manu-
factured plate
continued.

The distinguish-
marks for the
two standards.

marked with the workman's mark, and the Wardens of the mystery or craft of Goldsmiths as aforesaid, and with the figure of a Lion passant, and the figure of a Leopard's head. And that it shall not be lawful to make any vessel of silver Plate or manufactures of silver, of a coarser allay than what is herein specified, under the penalties and forfeitures prescribed by any of the Laws now in being concerning Wrought Plate; any thing in this act, or any other act or acts to the contrary notwithstanding.

No plate to be of a coarser allay.

The statute 12 G. 2. c. 26. recites the statutes 28 Ed. 1. st. 3. c. 20. 2 H. 6. c. 14. 18 Eliz. c. 15. and 12 W. 3. c. 4. regulating the Standard of Gold and Silver Plate; and that whereas his late Majesty King Charles the Socond, by his Letters Patent, under his Great Seal of England, bearing date 4 January, 18 Car. 2., reciting, that the Wardens of the said Company, in punishing defaults in the said trade, had been at great charges, and at the peril of their bodies, as well as the loss of their goods, so that the Wardens then late, on account of the menaces and assaults from the workers, could not put into execution the authorities given to them by former Charters, and many frauds had been committed; therefore his said Letters Patent empowered the Wardens of the said Company of Goldsmiths of London, and their successors, to commit offenders to prison, and to set fines upon them, and to seize and break deceitful wares: And then further recites, that "whereas the Standards of the Plate of this Kingdom are both for the honour and riches of the Realm, and so highly concern his Majesty's subjects, that the same ought to be most carefully observed, and all deceits therein to be prevented as much as possible; but notwithstanding the aforesaid several acts of Parliament and Charters, great frauds are daily committed in the manufacturing of gold and silver wares, for want of sufficient power effectually to prevent the same;" and then "for remedying such abuses for the future," enacts, that from and after the 28th May 1739, no Goldsmith, Silversmith, or other person whatsoever making, trading, or dealing in gold or silver wares, within that part of Great Britain called England, shall work or make, or cause or procure to be wrought or made, any Gold vessel, Plate, or manufacture of gold whatsoever, less in fineness than twenty-two carraets of fine gold in every pound weight Troy; nor work or make, or cause or procure to be wrought or made, any silver vessel, plate, or manufacture of Silver whatsoever, less in fineness than eleven ounces two pennyweight of fine silver in every pound weight Troy;

§ 5.

Fineness of gold and silver wares limited.

nor sell, exchange, or expose to sale, or export out of this Kingdom, any gold vessel, plate, or manufacture of gold whatsoever, made after the said 28th May 1739, less in fineness than twenty-two carrats of fine Gold in every pound weight Troy; nor sell, exchange, or expose to sale, or export out of this Kingdom, any Silver vessel, plate, or manufacture of silver whatsoever, made after the said 28th May 1739, less in fineness than eleven ounces two pennyweight of fine silver in every pound weight Troy; upon pain that every such Goldsmith, Silversmith, or other person, for every such offence, shall forfeit and pay the sum of ten pounds, to be recovered and disposed of as hereinafter is mentioned; and for default of payment, the offender shall be committed by the Court in which Judgment shall be given thereon, to the house of correction for the county, city, or liberty where convicted; there to remain, and be kept to hard labour, for any time not exceeding the space of six months, or until payment be made of the said forfeiture. s. 1.

This act not to extend to certain Jewellers works, except mourning rings.

Provided always, and it is hereby declared, that nothing in this act shall extend to any Jewellers' works, that is to say, any gold or silver wherein any jewels or other stones are or shall be set (other than mourning rings), nor to any jointed night-ear-rings of gold, or gold springs of lockets. s. 2.

How shopkeepers are to be exempted from prosecutions.

If any shopkeeper, or other person trading or dealing in Gold or Silver wares (not being the maker or worker thereof) shall happen to export, sell, or expose to sale any gold or silver wares worse than the respective standards, and shall within fourteen days next after notice of the coarseness thereof to him or her given, discover and make known to the party aggrieved, or to the Master, Wardens, or Clerk of any of the Companies of Goldsmiths belonging to the place or district within which such shopkeeper or other person trading or dealing in gold or silver wares as aforesaid shall reside, the name and place of abode of the maker or worker thereof, or of the person or persons of whom such shopkeeper, or other person trading or dealing in gold or silver wares as aforesaid, really bought such coarse gold or silver wares; and shall produce him, her, or them, if living, so that he, she, or they may be sued or prosecuted for the same; and if such shopkeeper, or other person trading or dealing in gold or silver wares, who sold, exposed to sale, or exported the same, shall, at any trial to be had against such maker or worker, or such other person or persons of whom the same were bought as aforesaid, for such offence, give or produce material evidence against such maker or worker, or

such other person of whom the same were bought as aforesaid; and the Judge before whom the cause shall be tried shall under his hand upon the Record certify the same, and also that there did not on such trial appear any ground to believe that such shopkeeper, or other person trading or dealing in gold or silver wares as aforesaid, was concerned in or privy to such fraud; or if such shopkeeper or dealer shall on the trial of any suit or prosecution against him, her, or themselves, concerning the premises, prove that he, she, or they delivered to such maker or worker a sufficient quantity of standard gold or silver to make the said wares, and paid a reasonable price for the fashion thereof, or paid such maker or worker, or other person or persons, a market price for standard gold or silver of that weight, besides a reasonable price for the fashion thereof; then, and in any or either of the said cases, such shopkeeper or dealer shall be and is hereby exempted and discharged from any penalty or forfeiture to be incurred by this act for exporting, selling, or exposing to sale such coarse gold or silver wares as aforesaid, and from any action, suit, or prosecution for the same; any thing herein contained to the contrary in anywise notwithstanding. s. 3.

Provided always, that it shall not be necessary for such Shopkeeper or other person trading or dealing in gold or silver wares, who sold, exposed to sale, or exported such coarse gold or silver wares as aforesaid, to give or produce such material evidence, or to procure such certificate as aforesaid, in order to his indemnity or discharge from any penalty or forfeiture by virtue of this act, unless such trial against such maker or worker, or other person of whom the same were bought as aforesaid, shall be had within four Terms after such discovery made as aforesaid respectively; nor unless reasonable notice shall be given to such shopkeeper or other person trading or dealing in gold or silver wares as aforesaid, of the time of such trial. s. 4.

From and after the said 28th May 1739, no Goldsmith, Silver-smith, or other person whatsoever, making or selling, trading or dealing in Gold or Silver wares, shall sell, exchange, or expose to sale, within that part of Great Britain called England, any gold or silver vessel, plate, or manufacture of gold or silver whatsoever, made after the said 28th May 1739, or export the same out of this Kingdom, until such time as such vessel, plate, or manufacture of gold (being of the standard of twenty-two caracts of fine gold per pound Troy), and such vessel, plate, or manufacture of silver (being of the standard of eleven ounces

Actions against shopkeepers shall be brought within four terms, and reasonable notice of trial shall be given.

Penalty on selling, exposing to sale, or exporting, Gold or Silver Wares without being marked.

two pennyweight of fine silver per pound Troy), shall be marked as followeth; that is to say, with the mark of the worker or maker thereof, which shall be the first letters of his Christian and Surname, and with these marks of the said Company of Goldsmiths in London, viz. the Leopard's Head, the Lion Passant, and a distinct variable mark or letter to denote the year in which such Plate shall be made; or with the mark of the worker or maker, and with the marks appointed to be used by the Assayers at York, Exeter, Bristol, Chester, Norwich, or Newcastle upon Tyne; or Plate (being of the standard of eleven ounces ten pennyweight of fine silver per pound weight Troy) with the mark of the worker or maker thereof, which shall be the first letters of his Christian and Surname as aforesaid, and with these marks of the said Company, viz. the Lion's Head erased, the figure of a Woman commonly called Britannia, and the said mark or letter to denote the year as aforesaid; or with the mark of the Worker or Maker, and the marks of one of the said Cities or Towns; upon pain that every such Goldsmith, Silversmith, and other person, for every such offence, shall forfeit and pay the sum of ten pounds, to be recovered and disposed of as herein-after is mentioned; and for default of payment shall be committed by the Court in which judgment shall be given thereon, to the House of Correction for the county, city, or liberty where convicted, there to remain and be kept to hard labour for any time not exceeding the space of six months, or until payment be made of the said forfeiture. s. 5.

Wares excepted.

Provided also, that nothing in this act contained shall extend to oblige any of the following wares of gold or silver to be stamped or marked by the said respective Companies of Goldsmiths, or any of them; that is to say, rings, collets for rings, or other jewels, chains, necklace beads, lockets, hollow or raised buttons, sleeve buttons, thimbles, corral sockets and bells, ferrils, pipe lighters, cranes for bottles, very small book clasps, any stock or garter clasps jointed, very small nutmeg graters, rims of snuff boxes whereof tops or bottoms are made of shell or stone, sliding pencils, toothpick cases, tweezer cases, pencil cases, needle cases, any philligree work, any sorts of tippings or swages on stone or ivory cases, any mounts, screws, or stoppers to stone or glass bottles or phials, any small or slight ornaments put to amber or other eggs or urns, any wrought seals, or seals with cornelian or other stones set therein, or any gold or silver vessel, plate, or manufacture of gold or silver so richly engraved, carved, or chased, or set with jewels or other stones, as not to

admit of an assay to be taken of, or a mark to be stuck thereon, without damaging, prejudicing, or defacing the same, or such other things as, by reason of the smallness or thinness thereof, are not capable of receiving the marks herein-before mentioned, or any of them, and not weighing ten pennyweight of gold or silver each. s. 6.

The statute 30 G. 3. c. 81. s. 1. recites the last-mentioned section and enacts, that "the said recited proviso and declaration, so far as the same relates to the not obliging the wares of Silver therein specifically named or mentioned, and such other wares or things of silver as are therein generally named, mentioned, or referred to in any manner howsoever, to be stamped or marked to the said respective Companies of Goldsmiths, or any of them, shall from and after the 28th May 1790, cease and determine, any thing in the said act of parliament contained to the contrary notwithstanding."

And whereas great frauds and abuses are daily committed by the private working and manufacturing of Silver Plate, without the notice or knowledge of the Commissioners or Officers appointed by his Majesty for managing the duty, notwithstanding the powers given for preventing the same by an act made in the sixth year of the reign of his late Majesty King George, [6 G. 1. c. 11.] for laying a duty on wrought plate: now, for the better preventing such frauds and abuses, and the discovery of such private workhouses or places for the future; be it enacted by the authority aforesaid, that from and after the said 28th May 1789, every Working Goldsmith and Silversmith, and other manufacturer of gold or silver whatsoever, who shall, at any time or times after the said 28th May 1789, work or make, or cause to be wrought or made, any gold or silver vessel, plate, or manufacture of gold or silver whatsoever, by this act required to be marked by the said Company of Goldsmiths; or by the said Wardens or Assayers, at the cities or places aforesaid respectively, shall from time to time send, with every parcel of such gold or silver, to the Assay Office of the said Company, or to the said Wardens or Assayers, a note or memorandum in writing, containing the day of the month and year, the christian and surnames of the worker or maker, and place of his abode, all the species in such parcel of plate, and the number of each species, with the total weight of such parcel; which note or memorandum shall be entered in like manner, by some officer or servant of the said Company, or by the said Wardens or Assayers, or their servants, in one or more of their book or books, and shall be

For preventing
the private work-
ing of Silver
Plate.

afterwards filed; and the officer or servant of the said Company, or such Warden or Assayer as aforesaid, who shall so enter and file such notes or memorandums, shall monthly transmit or deliver on oath, into the Excise Office, all the notes or memorandums by him or them received of or for Silver Plate assayed and marked at the respective Assay Offices, or true copies thereof; and the Commissioners of Excise shall and may, and they are hereby fully authorized and empowered, monthly, or oftener if they shall think fit, to appoint any person or persons to inspect and examine the book or books in the Assay Offices, in order to check any account or accounts of Wrought Plate chargeable with the said duty; and for every default of such Goldsmith, Silversmith, or Manufacturer of Gold or Silver, and of such officer or servant of the said Company of Goldsmiths as aforesaid; and for every default of such Warden or Assayer at any of the said other cities or places, touching or concerning any of the before-mentioned premises, he, each, and every of them, shall forfeit and pay the sum of Five Pounds, to be recovered and disposed of as hereinafter is mentioned; and for want of payment, the offender shall be committed by the Court in which Judgment shall be given thereon, to the House of Correction for the county, city, or liberty where convicted, there to remain and be kept to hard labour for any time not exceeding the space of Three Months, or until payment be made of the said forfeiture. 12 G. 2. c. 26. s. 9.

By s. 10. no drawback shall be allowed on the Exportation of Silver Plate, which has not been made seven years or more, before the day of entering the same for exportation.

Forfeitures how
to be recovered.

And, for the better recovery of the several penalties and forfeitures imposed by this act, be it enacted, that the said penalties and forfeitures, and every of them, shall and may be recovered, with full costs of suit, by action, bill, plaint, or information, in any of his Majesty's Courts of Record at Westminster; in which actions or suits the defendants shall give or put in special bail; and wherein no essoin, protection, or wager of law, nor more than one imparlance shall be allowed; and one moiety of the said penalties and forfeitures, and every of them, shall go to the use of his Majesty, his Heirs and Successors, and the other moiety to the person who shall sue for the same. s. 22.

By s. 24. the act is declared to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, and others.

Additional
Marks on Plate.

By Statute 24 G. 3. st. 2. c. 53. s. 5. (to denote the payment of a certain duty) over and besides the other legal Marks, there is

required on the same manufactures when sent to be assayed and marked, the Mark of the King's head, on pain of forfeiting, under the like circumstances as are mentioned in the former act, £50, (see s. 8.) to be recovered and disposed of as aforesaid; or in default of payment, the offender to be committed to the House of Correction, not exceeding one year, nor less than six months, or until payment of the penalty, and also upon pain of forfeiting the gold or silver manufacture so sold, exchanged, or exposed to sale, without being so marked; one moiety to the King, and the other to the party suing for the same. The Statute 30 G. 3. c. 31. recites the above provisions, and that doubts had arisen as to what silver wares are intended by that Act to be excepted from being so stamped or marked; and then enacts, that the said recited proviso and declaration, so far as the same relates to the not compelling any of the wares of Silver to be stamped or marked with the stamp or mark directed by the said Act, which are particularly excepted in the Act 12 G. 2. c. 26., shall from and after 28th May 1790 cease and determine.

The statute 38 G. 3. c. 69. recites, that "it would be for the advantage of the Manufactures of Gold in this Kingdom, that Gold of an inferior Standard to what is now allowed by Law should be permitted to be used for the same," and then enacts, that after 1 Oct. 1798, it shall be lawful for any goldsmith, or other person making, trading, or dealing in Gold Wares in Great Britain, to work or make, or cause or procure to be wrought or made, any gold vessel, Plate, or manufacture of gold whatsoever, of the Standard of eighteen (1) carats of fine gold in every pound weight Troy, and to sell, exchange, or expose to sale, or export out of this Kingdom, any gold vessel, Plate, or manufacture of gold whatsoever, of the Standard of eighteen carats of fine gold in every pound weight Troy; any thing contained in any act or acts of Parliament to the contrary notwithstanding.

By s. 2. such manufactures shall not be exposed to sale, sold, exchanged, or exported, until marked with the new mark of a Crown, and the figures 18, instead of the mark of the Lion Passant; on pain of forfeiting for every such offence £10. (2)

It shall be lawful for the respective Companies of Goldsmiths in London, Edinburgh, Birmingham, and Sheffield, and the

§ 6.

Gold may be manufactured for sale or exportation of the standard of 18 carats in a pound Troy.

Such articles not to be exposed to sale, &c. till marked.

Such articles may be assayed and marked with the

(1) See § 2. of this division.

(2) Recoverable as under 12 G. 2. c. 26. See s. 8. of this act. 39 G. 3. c. 69.

new mark herein directed for that purpose.

Wardens and Assayer or Assayers of gold at York, Exeter, Bristol, Chester, Norwich, and Newcastle upon Tyne, being respectively duly authorized according to the Laws in force on and immediately before the passing of this act, to touch, assay, and mark with the mark hereinbefore directed to be used, any gold vessel, gold plate, or manufacture of plate, made and wrought after the said first day of October 1798, of the Standard of 18 carats of Fine Gold in every pound weight Troy, of gold brought to them respectively to be touched, assayed, or marked, in like manner and under the like regulations, except as to the mark herein directed to be used instead of the mark of the Lion Passant, as they respectively are authorized, by the Laws in force on and immediately before the passing of this act, to touch, assay, or mark any gold vessel, gold plate, or manufacture of gold, of the Standard of 22 carats of fine gold in every pound weight Troy. s. 3.

Not to prevent the manufacture of Gold of the Standard of 22 carats.

Provided that nothing in this act contained shall be construed to extend to prohibit the making, selling, exchanging, exposing to sale, or exporting out of this kingdom, any gold vessels, Plate, or manufactures of gold whatsoever, of the Standard of 22 carats of fine gold to every pound weight Troy, in the manner directed by any law in force on and immediately before the passing of this act. s. 4.

Gold of 22 carats may be assayed as heretofore.

Provided also, that nothing herein contained shall be construed to authorize any person to touch, assay, or mark with the mark directed to be used by the Laws in force at and immediately before the passing of this Act, any gold vessel, gold plate, or manufacture of gold made and wrought of a lower standard than the Standard of 22 carats of fine gold in every pound weight Troy of gold. s. 5.

Making, selling, &c. or exporting, Gold Wares not marked, penalty £50.

If any person shall, from and after the said 1st October 1798, work or make, or cause or procure to be wrought or made, or shall sell, exchange, or expose to sale, or Export out of this Kingdom, or cause or procure to be sold, exchanged, or exposed to sale, or Exported out of this Kingdom, any gold vessel, Plate, or manufacture of gold, not being duly marked with one of the marks by Law required to denote one of the respective Standards of 22 or 18 carats of fine gold in every pound weight Troy, every such person shall for every such offence forfeit and pay the sum of £50. s. 6.

Manufactures of Gold of the Standard of 18 carats of fine

All gold vessels, Plate, and manufactures of gold whatever, of the Standard of 18 carats of fine gold in every pound weight Troy, shall be touched, assayed, and marked with the several

marks directed to be used by this act, or by any act or acts in force on and immediately before the passing of this act, in the marking of gold vessels, Plate, or manufactures of gold, except the mark of the Lion Passant, by the like persons, at such places, and under such powers, authorities, rules, and regulations, and shall have and be under such provisoes, exemptions, qualifications, and conditions, and shall be subject to such penalties and forfeitures, and to the like payments and rewards, subtractions, and detentions, for or upon touching, assaying, and marking the same, as gold vessels, and Plate, or manufactures of gold, of the Standard of 22 carats of fine gold in every pound weight Troy, may or ought to be touched, assayed, and marked with the marks required by the Laws in force as aforesaid, or have or are subject or liable to [by 12 G. 2. c. 26.] or by any act or acts therein recited or referred to, or by any other act or acts in force on and immediately before the passing of this act with relation to gold Plate wrought, made, or sold in, or exported out of this kingdom; and that all the powers, authorities, rules, provisions, penalties, and forfeitures, methods, clauses, and all other matters and things prescribed or appointed by the said act of the 12th year of his said late Majesty, or by any act or acts therein recited or referred to or by any other act or acts with relation to wrought gold Plate, or manufactures of gold, of the Standard of 22 carats of fine gold in every pound weight Troy, and in force on and immediately before the passing of this act (except where other provisions are expressly made by this act), shall be observed, practised, applied, and put in execution for the working, making, touching, and assaying all gold vessels, Plate, and gold manufactures of the Standard of 18 carats of fine gold in every pound weight Troy, and in and for the making the same according to the directions of this act, and in and for the selling, exchanging, exposing to sale, and exporting the same or any of them, and in and for the recovery of any penalties or forfeitures incurred against the form of the said acts, or any of them, or of this act, as fully and effectually as if the said several powers, authorities, rules, provisions, penalties and forfeitures, methods, clauses, matters, and things had been repeated and re-enacted in this act, and had been herein expressly applied to such gold vessels, Plate, and manufactures of the Standard of 18 carats of fine gold in every pound weight Troy respectively. s. 8.

gold, to be assayed and marked, &c. (except as the mark is hereby altered) as Gold of 22 carats is to be assayed, &c. and subjected to the like regulations,

Powers of 12 G. 2. c. 26. extended to this act.

II. Counterfeiting Bullion and the Marks on Bullion and Plate.

§ 1.

Penalty on casting bars of silver to resemble Spanish.

No person do or shall presume to cast Ingots or Bars of Silver in imitation of Spanish Bars or Ingots of Silver, nor do stamp any mark or impression upon any ingot or bar in likeness of the Spanish Marks or Impressions, upon pain that the person herein offending shall for every such offence forfeit the Silver so cast, and also the sum of £500, one moiety to the King, and the other to the informer, to be recovered with costs of suit, by action of debt, &c. (see s. 1.) 6 & 7 W. 3. c. 17. s. 3.

Where offences may be tried.

Offences under 6 & 7 W. 3. c. 17. may be heard and determined upon Indictment or Presentment in K. B. or before Justices of Oyer and Terminer, or Justices of Assise, or Justices of General Gaol Delivery, 8 & 9 W. 3. c. 26. s. 8. This statute of 8 & 9 W. 3. is made perpetual by statute 7 Ann. c. 25. s. 1.

§ 2.

Persons forging, &c. Stamps used for marking plate, shall be guilty of felony without clergy.

The statute 31 G. 2. c. 32. s. 14. repeals s. 8. of 12 G. 2. c. 26. which punished the offence of casting, forging, counterfeiting, or transposing stamps on gold and silver Plate, &c. by a forfeiture of £100; and then by s. 15. enacts, that if any person whatsoever, from and after 5 July 1758, shall cast, forge, or counterfeit, or cause or procure to be cast, forged, or counterfeited, any mark or stamp used or to be used for marking gold or silver Plate, in pursuance of the said act (12 G. 2. c. 26), or of any other act or acts of Parliament now in force, by the Company of Goldsmiths in London, or by the Wardens or Assayer or Assayers at York, Exeter, Bristol, Chester, Norwich, or Newcastle-upon-Tyne, or by any maker or worker of gold or silver Plate, or any or either of them; or shall cast, forge, or counterfeit, or cause or procure to be cast, forged, or counterfeited, any mark, stamp, or impression, in imitation of or to resemble any mark, stamp, or impression made or to be made with any mark or stamp used or to be used as aforesaid by the said Company of Goldsmiths in London, or by the said Wardens or Assayer or Assayers, or by any maker or worker of gold or silver plate, or any or either of them; or shall mark or stamp, or cause or procure to be marked or stamped, any wrought plate of gold or silver, or any wares of brass or other base metal silvered or gilt over, and resembling plate of gold or silver, with any mark or stamp which hath been or shall be forged or counterfeited, at any time either before or after the said 5th July, in imitation of or to resemble any mark or stamp used or to be used as aforesaid by the said

Company of Goldsmiths in London, or by the said Wardens or Assayer or Assayers, or by any maker or worker of gold or silver Plate, or any or either of them; or shall transpose or remove, or cause or procure to be transposed or removed, from one piece of wrought Plate to another, or to any vessel of such base metal as aforesaid, any mark, stamp, or impression made or to be made by or with any mark or stamp used or to be used as aforesaid by the said Company of Goldsmiths in London, or by the said Wardens or Assayer or Assayers, or by any maker or worker of gold or silver Plate, or any or either of them; or shall sell, exchange, or expose to sale, or export out of this Kingdom, any wrought Plate of gold or silver, or any vessel of such base metal as aforesaid, with any such forged or counterfeit mark, stamp, or impression thereon, or any mark, stamp, or impression which hath been or shall be transposed or removed from any other piece of plate, at any time either before, on, or after the said 5th July, knowing such mark, stamp, or impression to be forged, counterfeited, or transposed or removed as aforesaid; or shall wilfully and knowingly have or be possessed of any mark or stamp which hath been or shall be forged or counterfeited, at any time either before, on, or after the said 5th July, in imitation of or to resemble any mark or stamp used or to be used as aforesaid, by the said Company of Goldsmiths in London, or by the said Wardens or Assayer or Assayers, or by any maker or worker of gold or silver Plate, or any or either of them; every such person offending in any, each, or either of the cases aforesaid, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy. (See the Statute 52 G. 3. c. 143. post.)

From and after the said 1st October 1798, if any person shall forge, cast, or counterfeit, or cause or procure to be cast, forged, or counterfeited, the mark or stamp used or directed to be used in pursuance of this act, for the marking or stamping of gold plate by the Company of Goldsmiths in London or Edinburgh, or the Birmingham or Sheffield Company, or by the Wardens or Assayer or Assayers at York, Exeter, Bristol, Chester, Norwich, or Newcastle-upon-Tyne, or any or either of them; or shall cast, forge, or counterfeit, or shall cause or procure to be cast, forged, or counterfeited, any mark, stamp, or impression in imitation of or to resemble any mark, stamp, or impression made or to be made with any mark or stamp used or to be used as aforesaid by the said Company of Goldsmiths in London or Edin-

Persons counterfeiting, &c. or casting marks on plate, or selling, &c. or exporting plate with such counterfeit marks, or being wilfully possessed thereof, or removing or transposing any mark or stamp from one piece of plate to another;

burgh, or by the said Birmingham or Sheffield Company, or by the said Wardens or Assayer or Assayers, or any or either of them; or shall mark or stamp, or cause or procure to be marked or stamped, any wrought plate of gold, or any wares of silver, brass, or other metal gilt over and resembling plate of gold, with any mark or stamp which hath been or shall be forged or counterfeited, at any time (either before, on, or after the said 1st October 1798), in imitation of or to resemble any mark or stamp used or to be used as aforesaid by the said Company of Goldsmiths in London or Edinburgh, or by the said Birmingham or Sheffield Companies, or by the said Wardens or Assayer or Assayers, or any or either of them, or shall transpose or remove, or cause or procure to be transposed or removed, from one piece of wrought plate to another, or to any vessel of silver, brass, or other metal as aforesaid, any mark, stamp, or impression made or to be made by or with any mark or stamp used or to be used as aforesaid by the said Company of Goldsmiths in London or Edinburgh, or by the said Birmingham or Sheffield Companies, or by the said Wardens or Assayer or Assayers, or any or either of them; or shall sell, exchange, or expose to sale, or export out of this Kingdom, any wrought plate of gold, or any vessel of silver, brass, or other metal as aforesaid, with any such forged or counterfeit mark, stamp, or impression thereon, or any mark, stamp, or impression which hath been or shall be transposed or removed from any other piece of plate, knowing such mark, stamp, or impression to be forged, counterfeited, or transposed, or removed as aforesaid, or shall wilfully or knowingly have or be possessed of any mark or stamp which hath been or shall be forged or counterfeited, in imitation of and to resemble any mark or stamp used or to be used as aforesaid by the said Company of Goldsmiths in London or Edinburgh, or by the said Birmingham and Sheffield Companies, or by the said Wardens or Assayer or Assayers, or by any or either of them; every such person offending in any such or either of the cases aforesaid, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall be transported to such parts beyond the Seas as his Majesty, with the advice of his Privy Council, shall direct, for the space of seven years. 38 G. 3. c. 69. s. 7.

shall be guilty
of felony, and
be transported
for seven years.

The Statute 52 G. 3. c. 143. "for amending and reducing into one Act the provisions contained in any Laws now in force, imposing the penalty of Death for any act done in breach of or in resistance to any part of the Laws for collecting his Majesty's Revenue in Great Britain, declares and enacts (s. 6.), that if

any person shall, after the passing of this act, transpose or remove, or cause or procure to be transposed or removed, from one piece of wrought plate of gold or silver to another, or to any vessel or ware of base metal, any impression made with any mark, stamp, or die, provided, made, or used by or under the direction of the said Commissioners of Stamps, or by or under the direction of any other person or persons legally authorized in that behalf, for denoting any duty or duties, or the payment of any duty or duties granted to his Majesty on gold or silver plate; or shall stamp or mark, or cause or procure to be stamped or marked, any vessel or ware of base metal with any mark, stamp, or die which shall have been forged or counterfeited in imitation of or to resemble any mark, stamp, or die so provided, made, or used as aforesaid; or shall sell, exchange, or expose to sale, or export out of Great Britain, any wrought plate of gold or silver, or any vessel or ware of base metal, having thereupon the impression of any forged or counterfeited mark, stamp, or die, for denoting any such duty or duties, or the payment of any such duty or duties, or any forged or counterfeit impression of any mark, stamp, or die so provided, made, or used as aforesaid, or any impression of any such mark, stamp, or die, which shall have been transposed or removed from any other piece of plate as aforesaid, knowing the same respectively to be forged or counterfeited, or transposed or removed as aforesaid; or shall wilfully and without lawful excuse (the proof whereof shall lie on the person accused) have or be possessed of any such forged or counterfeited mark, stamp, or die, for denoting any such duty or duties, or the payment thereof; every person so offending, and being thereof convicted, shall be adjudged guilty of Felony, and shall suffer death as a Felon, without benefit of Clergy.

Persons transposing from one piece of wrought gold or silver plate to another, or to any metal ware, any impression made with any mark, stamp, or die, or stamping such articles with any forged stamp, &c., or selling, &c. or exporting the same so stamped, or having possession of any such forged mark, stamp, or die, ousted of clergy.

The statute 55 G. 3. c. 185. "for repealing the Stamp Office Duties on Gold and Silver Plate now payable in Great Britain, and for granting new Duties in lieu thereof," enacts, (s. 7.) that if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any mark, stamp, or die which shall have been provided, made, or used in pursuance of this or any former act relating to any duties on gold or silver Plate made or wrought in *Great Britain*, for the purpose of marking or stamping any such gold or silver Plate in the manner directed by any such act; or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression of any such mark, stamp, or die, upon any such gold or silver Plate, with intent to de-

Person forging, &c. any mark, stamp, or die, relating to the duties on gold or silver plate,

or the impression thereof,

or marking, &c. such plate, or any ware of base metal, with any forged stamp, &c., or transferring stamps, &c. from one piece of plate to another, or exposing to sale wares with such forged or transferred stamps thereon;

or having in possession, or privately using such forged stamps, &c.

declared guilty of felony, and ousted of clergy.

fraud his Majesty, his heirs or successors; or if any person shall mark or stamp, or cause or procure to be marked or stamped, any such gold or silver Plate, or any vessel or ware of base metal, with any such forged or counterfeited mark, stamp, or die as aforesaid; or shall transpose or remove, or cause or procure to be transposed or removed, from one piece of gold or silver Plate to another, or to any vessel or ware of base metal, any impression made with any mark, stamp or die, which shall have been provided, made, or used in pursuance of this or any former act, for the purpose of marking or stamping of any such gold or silver Plate as aforesaid; or if any person shall sell, exchange, or expose to sale, or export out of *Great Britain*, any such gold or silver Plate, or any vessel or ware of base metal, having thereupon the impression of any such forged or counterfeited mark, stamp, or die as aforesaid, or any forged, counterfeited, or resembled impression of any mark, stamp, or die so provided, made, or used as aforesaid, or any impression of any such mark, stamp, or die, which shall have been transposed or removed from any other piece of Plate as aforesaid, knowing the same respectively to be forged or counterfeited, or transposed or removed as aforesaid; or if any person shall wilfully and without lawful excuse (the proof whereof shall lie on the person accused) have or be possessed of any such forged or counterfeited mark, stamp, or die as aforesaid, or shall privately and secretly use any mark, stamp, or die so provided, made, or used as aforesaid, with intent to defraud his Majesty, his heirs or successors; then every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person or persons in committing any such offence as aforesaid, and being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy.

III. *Exportation of Bullion and Plate.*

(And see Division I. § 5.)

§ 1.
Gold or Silver
Plate shall not be
exported.

By Statute 9 Ed. 3. st. 2. c. 1. no religious man nor other shall carry any Sterling out of the Realm of England, nor Silver in Plate, nor vessel of gold nor of silver, upon pain of forfeiture of the money, plate, or vessel that he so carry, without our special Licence.

By Statute 38 Ed. 3. st. 1. c. 2. it is Ordained, that none carry out of the Realm gold nor silver in plate, nor in money, saving the Victuallers of fish, and they that bring fish into the Realm.

By the statute 5 R. 2. st. 1. c. 2. it is Assented and Accorded, and the King enjoineth all manner of people, merchants, clerks, and others, as well strangers as denizens, upon pain of as much as they may forfeit, that none of them, upon the said pain, privily nor openly send nor carry, nor cause to be sent or carried, out of the said Realm, any gold or silver in Money, Bullion, Plate, or Vessel, neither by exchanges to be made nor in any other manner, but for the Wages of Calais and of other the King's Fortresses beyond the Sea. And if after Proclamation of this Ordinance any person be from henceforth duly attainted that he hath caused to be sent or carried beyond the Sea any Gold or Silver, against this restraint and ordinance, he shall forfeit to the King the same sum so carried or sent. And the King commandeth all Wardens and Searchers of the Ports and passages through England, that they shall from henceforth diligently use their office and make good and strait search, and if any Searchers or Wardens, by negligence or in any other manner, do or suffer wittingly to be done in any point the contrary of the article touching the money of Gold or Silver, and thereof be duly convict, he shall forfeit to the King his said office and all his goods, and his body shall be committed to prison, there to abide an whole year without redemption.

An Exception is made in the act in favour of certain persons necessarily making payments abroad, which is to be done by Exchanges in England, by Merchants to pay beyond the Sea, and by the King's Licence.

No Goldsmith or other person shall transport, or cause to be transported out of this Realm of England into any parts beyond the Seas, any Molten Silver whatsoever, but such only as shall be marked or stamped at Goldsmiths-Hall, nor unless a certificate be first obtained under the hand of one of the Wardens of the Goldsmiths Company, of oath having been made before him by the owner of such molten silver, and likewise by one credible witness, that the same is lawful silver, and that no part thereof was (before the same was molten) the current Coin of this Realm, nor Clippings thereof, nor plate wrought within this Kingdom; and on failure of this proof, the Wardens may seize all such molten silver so offered to be marked. 6, 7 W. 3. c. 17. s. 5.

Any Custom-house Officer may seize any molten silver put on board any vessel without such mark or stamp and certificate. s. 6.

In case of any seizure of any Bullion shipped to be exported, if any doubts shall arise whether the same be English or Foreign

§ 2.
Penalty in exporting unstamped Bullion.

Custom-house officer may seize it.

Proof of the legality of the Bullion shall lie upon the owner.

Bullion, the proof shall lie upon the Owner, Claimer, or Exporter of such Bullion, that the same is foreign Bullion, and had not been melted down in England, Wales, or Berwick. s. 13.

Where offences may be tried.

Offences under 6, 7 W. 3. c. 17. may be heard and determined upon Indictment or Presentment in K. B., or before Justices of Oyer and Terminer, or Justices of Assize, or Justices of General Gaol Delivery. 8, 9 W. 3. c. 26. s. 8. This statute of 8 & 9 W. 3. was made perpetual by statute 7 Ann. c. 25. s. 1.

§ 3.

Bullion, before being shipped for exportation, shall be sworn to as foreign.

By Statute 7, 8 W. 3. c. 19. s. 6, 7. no person shall ship or cause to be shipped any Molten Silver or Bullion whatsoever in any form, unless a certificate be first obtained from the Court of the Lord Mayor and Aldermen of London, oath having been made before that Court by the Owners and two Witnesses, that the same was and is foreign Bullion, and that no part thereof was the Coin of this Realm, or clippings thereof, nor Plate wrought within this Kingdom, which oath the said Court shall circumstantially certify to the Commissioners of the Customs before any cocket shall be granted for shipping the same, on pain to the Owner of loss of the goods, and forfeiting double the value; to the Captain the forfeiture of £200, and if in the King's service, also the loss of command and incapacity; to the Cocket Officer £200, and incapacity to hold any office.

§ 4.

By Statute 15 Car. 2. c. 7. s. 12. any person may export any Foreign Coin or Bullion, duty free, first making an entry thereof at the Custom house.

§ 5.

The statute 43 G. 3. c. 49. which is intituled "An act to amend so much of several acts passed in the sixth and seventh, and in the eighth year of the reign of King William the Third, as relates to the exportation of silver Bullion," recites that "the United Company of Merchants trading to the East Indies and others may be possessed of large quantities of foreign Molten Silver and Bullion, brought from parts beyond the Seas, but may not be able to make proof according to Law that no part of the same was (before the same was molten) the coin of this Realm, or clippings thereof, nor Plate wrought within Great Britain, for the obtaining certificates for the exportation thereof; and that it is expedient that permission should be given to export such molten Silver and Bullion under certain restrictions;" and then enacts, that after the passing of the act it shall be lawful for the Lord High Treasurer for the time being, or the Lords Commissioners of his Majesty's Treasury for the time being, or any three or more of them, to authorize any person or persons, or any body or bodies politic or corporate, to ship

The Treasury may grant licences to export molten silver or bullion without the fulfilment of the requisites under former acts.

or export, or cause to be shipped or exported, from Great Britain, on board any vessel or ship whatsoever, any Molten Silver or Bullion, by any licence or licences given from time to time for that purpose, under their respective hands (such licences specifying the names and quantities of such Molten Silver or Bullion, and being entered in the books of the Custom House of the Port from whence such exportation shall be made before the shipping and exportation thereof), without any oath, certificate, or other document whatsoever now requisite for the lawful shipping or exportation of any such molten Silver or Bullion; and it shall be lawful for any such person or persons, or body or bodies politic or corporate, to whom any such licence or licences shall be granted as aforesaid, to ship or export any such molten Silver or Bullion specified in any such licence or licences, without the certificate or certificates now required by Law; and no such Molten Silver or Bullion, so shipped or exported under any such licence or licences as aforesaid, shall be seizable or seized or forfeited for the want of any such certificate or certificates; and the Owners or Proprietors thereof, and all Commissioners and Officers of his Majesty's Customs, and all other persons whatsoever, having any concern whatsoever in the shipping or exportation thereof, or in the permitting the same to be shipped or exported under any such licence or licences as aforesaid, shall be and are hereby freed, discharged, and indemnified from and against all forfeitures and penalties whatsoever in respect thereof; any Act or Acts of Parliament, or Law or Statute, to the contrary thereof notwithstanding.

IV. Illegal Sale or Possession of Bullion.

If any Broker or Brokers, not being a trading Goldsmith or Refiner of Silver, shall buy or sell any Bullion or molten Silver, every such person shall suffer for every such offence, imprisonment for six months without bail or mainprize.
6 & 7 W. 3. c. 17. s. 7.

§ 1.

None but certain persons shall buy or sell bullion.

It shall be lawful for one or more of the Wardens of the Company of Goldsmiths, with any two or more of the Court of Assistants of the said Company, within the Bills of Mortality, and for two Justices of the Peace within any County, City, or Town Corporate out of the Bills of Mortality, to enter into the House, Room, or Workshop of any person who shall be suspected to be guilty of buying or selling unlawful Bullion, and

§ 2.

Wardens of the Goldsmiths Company and Justices of Peace may search for unlawful bullion.

Persons in whose possession such Bullion is found, not proving that it is neither the current Coin nor clippings melted down, shall suffer six months imprisonment.

to search for the same; and in case the occupier of such House, &c. shall refuse to permit the said Warden and Assistants or Justices to make such search as aforesaid, they may, with the assistance of a Constable, break open any Door, Box, Trunk, Chest, Cupboard, or Cabinet, in order to search for and discover such Bullion as is aforesaid; and in case the person so searching shall find any such unlawful Bullion, the person so finding the same shall seize as well such Bullion as the person and persons in whose possession the same shall be found; and the said Wardens, Assistants, and Constables, shall bring the Parties before the next Justice of the Peace, who shall, upon oath made of such finding, which Justice within the Bills of Mortality, and the said two Justices without the said Bills of Mortality, shall examine the parties so brought before him or found by them respectively, upon oath, whether the Bullion so found be lawful Silver, and whether the same was not (before the melting thereof) the current Coin of this Realm, or clippings thereof; and in case the said person so examined shall not prove by his oath, or by the oath of one credible Witness before such Justice and Justices respectively, that the Bullion so found is lawful Silver, and that the same was not, before the melting thereof, the current Coin of this Realm, nor clippings thereof, then the said Justice or Justices respectively shall commit the person so examined to Prison, and shall secure the Bullion so found, and shall likewise oblige the persons that can give any evidence concerning the same, to enter into a Recognizance to prosecute the said Offender and Offenders; and in case such Offender and Offenders, in whose possession such unlawful Bullion shall be found, shall not upon his Trial on an Indictment for melting the current Silver Coin of this Realm, prove by the oath of one credible Witness at the least the Bullion so found to be lawful Silver, and that the same was not the current Coin of this Realm, nor clippings thereof, then, and for want of such proof, such offender shall be found guilty of the Offence contained in such Indictment, and shall suffer imprisonment for Six Months without Bail or Mainprize. s. 8.

Offences under 6 & 7 W. 3. c. 17. may be heard and determined upon Indictment or Presentment in K. B., or before Justices of Oyer and Terminer, or Justices of Assise, or Justices of General Gaol Delivery. 8 & 9 W. 3. c. 26. s. 8. This act of 8 & 9 W. 3. is made perpetual by Statute 7 Ann. c. 25. s. 1.

V. Gilding and silvering Metal.

None from henceforth shall gild any Sheaths nor Metal but Silver, and the Ornaments of Holy Church, nor shall Silver no Metal but Knights Spurs and all the apparel that pertaineth to a Baron, and above that estate, upon pain of forfeiture to the King Ten times as much as the thing so guilt is of value, and shall also have One Year's imprisonment; and the Justices of Peace shall have power to inquire thereof, and that to determine; and he that will sue for the King in this behalf, shall have the third part of the said pecuniary pain. 8 H. 5. c. 3.

Certain articles shall not be gilded.

VI. Gilding or silvering certain Copper or Latten Wares.

No Artificer nor other man, whatsoever he be, from henceforth shall gilt nor silver any locks, rings, beads, candlesticks, harness for girdles, chalices, hilts, nor pomels of swords, powder boxes, nor covers for cups, made of Copper or Latten, upon pain to forfeit to the King 100 s. at every time that he shall be found guilty, and to make satisfaction to the party grieved for his damages; but that (chalices always excepted) the said Artificers may work or cause to be wrought ornaments for the Church of Copper and Latten, and the same gilt or silver, so that always in the foot or in some other part of every such ornament so to be made, the Copper and the Latten shall be plain, to the intent that a man may see whereof the thing is made, for to eschew the deceit thereof. 5 H. 4. c. 13.

Artificers shall not gild or silver certain articles made of copper or latten.

Item, for that the Goldsmiths will not sell the wares of their mystery gilt but at the double price of the weight of the silver of the same, the King hath ordained and established, that all the Goldsmiths of England shall gild no silver worse than the allay of the English Sterling [and that they take for a pound of Troy gilt but forty-six shillings eight-pence at the most, and of greater weight and less according to the quantity and rate of the same sum (1)]; and that which shall be by them gilt from henceforth shall be of reasonable price, and not excessive; and if any Goldsmith do contrary to this Statute, he shall forfeit to the King the value of the thing so sold. 2 H. 5. st. 2. c. 4.

The pound troy of silver gilt shall be sold for 46s. 8d.

(1) This part of the statute is repealed by statute 21 Jac. 1. c. 28,

Buonaparté (NAPOLEON).

During the time Buonaparté shall be in custody in Saint Helena, no Communication to be permitted.

The Statute 56 G. 3. c. 23., intituled "An Act for regulating the Intercourse with the Island of Saint Helena, during the time Napoleon Buonaparté shall be detained there; and for indemnifying persons in the cases therein mentioned;" recites, that Napoleon Buonaparté is now detained and kept in custody in the Island of Saint Helena; and that it is requisite and necessary to prohibit all Intercourse and Communication with the said Island of Saint Helena, either by his Majesty's subjects or by any other person or persons, except under the restrictions and according to the rules, regulations, and conditions hereinafter set forth and prescribed, during such time as the said Napoleon Buonaparté shall be detained and kept, or shall be ordered by his Majesty, his heirs and successors, to be detained and kept in the said Island of Saint Helena; and enacts, that for and during such time as the said Napoleon Buonaparté shall be detained and kept in custody, or shall be ordered by his Majesty, his Heirs and Successors, to be detained and kept in custody in the said Island of Saint Helena, it shall not be lawful for any of his Majesty's subjects, or for any other person or persons whatsoever, (except in ships or vessels of and belonging to, or chartered or employed by the United Company of Merchants of England trading to the East Indies, duly ordered to proceed to or to rendezvous at the said Island by the said United Company, or by the Governor General of Fort William, the Governor of Fort Saint George or Bombay, or by the said Company's Supra Cargoes in China,) to trade, go, sail, or repair to the said Island of Saint Helena, without the Licence of his Majesty, his heirs or successors, signed by one of his Majesty's Principal Secretaries of State, or without the licence, consent, and permission of the Governor, or, in his absence, of the Deputy Governor of the said Island for the time being, or of the Commander for the time being of his Majesty's Naval or Military Forces stationed off or at the said Island; and if any person or persons (except as before excepted), other than such as shall be thereunto lawfully authorized by such licence of his Majesty, his heirs and successors, or of the Governor, Deputy Governor or Commander, or such permission or consent as aforesaid, shall trade, go, sail, repair to, or land upon the said Island of Saint Helena, he or they shall be deemed guilty of a High Crime and Misdemeanor, and shall and may be prosecuted for the same in his Majesty's Court of King's Bench here in England, upon inform-

ation exhibited by his Majesty's Attorney General, or upon indictment found; in which information or indictment such offence may be laid and charged to have been committed in the County of Middlesex; and all and every person or persons so offending shall on conviction be liable to such punishment by imprisonment and fine, or either, as the Court shall adjudge or award; any law, statute, or usage to the contrary notwithstanding. s. 1.

All and every person and persons so offending, shall and may be seized and brought to England for the purpose of being so tried; and that it shall and may be lawful to and for any one or more of his Majesty's Justices of the Peace, and he and they is and are authorized and required, to commit all and every such person and persons to the next County Gaol, there to remain until sufficient security be given by natural-born subjects or denizens, to appear in his Majesty's Court of King's Bench at Westminster, to answer any information or indictment exhibited or found, or to be exhibited or found, against him or them, and not to go or depart out of Court, or out of this Kingdom, without leave of the said Court. s. 2.

Persons offending may be seized, and brought to England, to await their trial.

If any person who shall arrive at the said Island on board any ship or vessel of and belonging to, or chartered or employed by the said United Company as aforesaid, shall land on the said Island from on board the same, or shall land on the said Island from any of his Majesty's ships or vessels of War, (except the officers and seamen of and belonging to such ship or vessel of war) shall not, when thereunto ordered and required by the said Governor, or in his absence the Deputy Governor for the time being of the said Island, forthwith return to and repair on board such ship or vessel from which he shall have so landed as aforesaid, it shall and may be lawful for the said Governor, or in his absence the Deputy Governor for the time being, to seize and detain every such person until he or she can be sent, and to send him or her on board the said ship or vessel from which he or she so landed as aforesaid; and every person who shall have so landed from any such ship or vessel as last aforesaid, who shall, after the departure of such ship or vessel from the said Island, remain on the said Island without the licence, permission, and consent of the said Governor, or in his absence the Deputy Governor for the time being, shall be deemed guilty of a Misdemeanor, and shall and may be dealt with, prosecuted, and punished in the same manner and form as persons who shall, without licence, permission, and consent as aforesaid, land from

Persons landing (other than officers and seamen belonging to ships of war) shall return to the ship when ordered, or be taken into custody.

any other ship, vessel, or boat, not belonging to, chartered or employed by the said United Company, or ordered by the said Company, or their servants as aforesaid, to proceed to or rendezvous at the said Island. s. 3.

For preventing vessels (except vessels belonging to the Company, &c.) from trading or touching at Saint Helena.

It shall and may be lawful to and for the Governor, or in his absence the Deputy Governor of the said Island for the time being, or for the Commander for the time being of his Majesty's Naval or Military Forces stationed off or at the said Island respectively, and the persons acting under his or their orders and commands respectively, by all necessary ways and means to hinder and prevent any ship, vessel, or boat, ships or vessels or boats, (except ships and vessels of and belonging to or chartered by the said United Company of Merchants, and also duly licensed by the said Company for that purpose, as herein-before mentioned,) from repairing to, trading or touching at the said Island, or having any communication with the same; and to hinder and prevent any person or persons from landing upon the said Island from such ships, vessels, or boats, and to seize and detain all and every person and persons that shall land upon the said Island from the same; and all such ships, vessels, or boats (except as above excepted) as shall repair to, or trade or touch at the said Island, or shall be found hovering within eight leagues of the Coast thereof, and which shall or may belong, in the whole or in part, to any subject or subjects of his Majesty, or to any person or persons owing allegiance to his Majesty, shall and are hereby declared to be forfeited to his Majesty, and shall and may be seized and detained, and brought to England, and shall and may be prosecuted to condemnation by his Majesty's Attorney General, in any of his Majesty's Courts of Record at Westminster, in such manner and form as any ship, vessel, or boat may be seized, detained, or prosecuted for any breach or violation of the Navigation or Revenue Laws of this Country; and the offence for which such ship, vessel, or boat shall be proceeded against, shall and may be laid and charged to have been done and committed in the County of Middlesex; and if any ship, vessel, or boat, not belonging in the whole or in part to any person or persons the subject or subjects of, or owing allegiance to his Majesty, his heirs and successors, shall repair to, or trade or touch at, the said Island of Saint Helena, or shall be found hovering within eight leagues of the Coast thereof, and shall not depart from the said Island or the Coast thereof when and so soon as the

master or other person having the charge and command thereof shall be ordered so to do by the Governor or Lieutenant Governor of the said Island for the time being, or by the Commander of his Majesty's Naval or Military Force stationed at or off the said Island for the time being (unless in case of unavoidable necessity, or distress of weather), such ship or vessel shall be deemed forfeited, and shall and may be seized and detained and prosecuted in the same manner as is herein-before enacted as to ships, vessels, or boats of or belonging to any subject or subjects of his Majesty. s. 4.

Provided always, that if any ship or vessel shall happen, by stress of weather, peril of the sea, or other inevitable accident, or other urgent necessity, to be driven or forced to the said Island, and from such cause to touch thereat, and the master or other person having the command of such ship or vessel shall forthwith give notice thereof, and of the cause thereof, to the Governor, or in his absence to the Deputy Governor of the said Island for the time being, or to the Commander of his Majesty's Naval or Military Forces for the time being, or one of them; and shall, during the time that such ship or vessel shall be permitted to remain at the said Island, in all things conform to the directions and orders of the said Governor, or in his absence of the said Deputy Governor for the time being; and the said ship or vessel shall quit the said Island, and depart therefrom, with all the crew and passengers of and belonging to the said ship or vessel, as and when the said Governor, or in his absence the Deputy Governor for the time being, or the Commander of his Majesty's Naval or Military Forces at the said Island for the time being, or either of them, shall direct and require; such ship or vessel shall not be subject to forfeiture, nor shall the owners or master or crew thereof, or any person or persons on board the same, who shall so conform to such directions and orders as aforesaid, be liable to any of the pains, penalties, or punishments herein-before mentioned: Provided nevertheless, that the proof of such ship or vessel having been driven or forced to repair to and touch at the said Island by stress of weather, peril of the sea, or other inevitable accident or urgent necessity, and of having quitted and departed from the said Island as herein-before mentioned, shall lie upon the party claiming such exemption from the pains, penalties, and punishments aforesaid; any thing in this act or any other act contained to the contrary notwithstanding. s. 5,

Provision in case of vessels driven by stress of weather into Saint Helena,

Indemnifying
Persons acting in
detaining Buona-
parté in custody.

And whereas in consequence of Napoleon Buonaparté having been detained, and kept in custody in the Island of Saint Helena, and in order to the safely and securely detaining and keeping him in such custody, it may have happened that the Commissioners for executing the Office of Lord High Admiral, or the Governor of the said Island for the time being, or the Commander of his Majesty's Naval or Military Forces respectively, or other Officers and Persons acting or who have acted in their aid and assistance, or under their advice, orders, or commands, may from the urgency of the occasion have given orders, done acts, or used means for the purpose, which may not be strictly justified by Law; and in such case it is highly fit that they should be justified and indemnified by Act of Parliament for the same; be it therefore enacted, that the said Commissioners for executing the Office of Lord High Admiral, and the Governor of the said Island of Saint Helena for the time being, and the Commander or Commanders of his Majesty's Naval or Military Forces for the time being, and all and every officer and officers, person and persons, who have acted in their aid and assistance, or under their respective advice, orders, and commands, shall be and they are hereby indemnified for the same. s. 6.

General issue.

All actions, suits, indictments, prosecutions, and proceedings whatsoever, which may have been or which shall be hereafter prosecuted or commenced against any person or persons, for or by reason of any advice, orders or commands issued, or for or by reason of any act, matter, or thing advised, commanded, appointed, ordered, or done by the said Commissioners for executing the Office of Lord High Admiral, or by the Governor of the said Island for the time being, or the Commander of his Majesty's Naval or Military Forces respectively, or by any officer or officers, person or persons, acting in their aid and assistance, or under their or either of their advice, orders, or commands, at any time before the passing of this act, be and shall be discharged and made void by virtue of this act; and that in any action, suit, indictment, prosecution, or proceeding now commenced or which shall or may hereafter be prosecuted and commenced, against any of the said Commissioners, Governor or Governors, Commanders, Officers, or person or persons as aforesaid, for or by reason of any such advice, order, or command, or for or by reason of any act, matter, or thing done in such aid and assistance, or under such advice, order, or command respectively, he, she, or they may plead the General Issue, and give this act and the special matter in evidence. s. 7.

Provided always, that this act, or any thing herein contained, shall not extend or be construed to extend to restrain or prejudice the trade or right of trade or navigation of the said United Company of Merchants of England trading to the East Indies, to the said Island of Saint Helena, in ships of and belonging to or chartered by the said Company, and duly licensed by them for that purpose, or to prejudice or infringe the rights of the said Company to and over the said Island and the inhabitants thereof, except as is herein-before specially enacted and contained. s. 8.

Not to extend to prejudice the right of the East India Company to trade with Saint Helena.

The statute 56 G. 8. c. 22. intituled "An act for the more effectually detaining in custody Napoleon Buonaparté," recites, that it is necessary for the preservation of the tranquillity of Europe, and for the general safety, that Napoleon Buonaparté should be detained and kept in custody as is hereinafter provided; and then enacts, that it shall and may be lawful for his Majesty, his Heirs and Successors, to detain and keep the said Napoleon Buonaparté in the custody of such person or persons, in such place within his Majesty's Dominions, and under such restrictions, during the pleasure of his Majesty, his Heirs and Successors, as to his Majesty, his Heirs and Successors, shall from time to time seem fit. s. 1.

For detaining Napoleon Buonaparté in custody;

The said Napoleon Buonaparté, being in such custody as aforesaid, shall be deemed and taken to be, and shall be treated and dealt with as a Prisoner of War, except only in so far as by his Majesty, his Heirs and Successors, shall at any time, or from time to time, be otherwise directed; and that it shall and may be lawful for his Majesty, his Heirs and Successors, by warrant under the hand and seal of one of his or their Principal Secretaries of State, to nominate and appoint such person or persons, being his Majesty's subject or subjects, as to his Majesty, his Heirs and Successors, shall seem fit, to have the custody of the said Napoleon Buonaparté; and from time to time, by like warrant, to change the place, and to appoint such other place as to his Majesty, his Heirs and Successors, shall seem fit, in which the said Napoleon Buonaparté shall be detained and kept; and by like warrant to authorize and empower any person and persons to remove the said Napoleon Buonaparté from the place in which he now is, or shall at any time hereafter be so detained and kept, and to convey him to such other place as shall be so appointed as aforesaid; and that it shall and may be lawful for such person and persons so appointed or to be appointed as aforesaid, to call to his or their

who shall be treated as a prisoner of war.

Appointing persons to have the custody;

to change the place;

and to remove him.

For calling in assistance.

Buonaparté (Napoleon).

aid and assistance all or any persons, being subjects of his Majesty, or owing Allegiance to his Majesty, for the detaining and keeping the said Napoleon Buonaparté in custody as aforesaid, or for the removing or conveying him as aforesaid, as occasion may require; and that all and every such person or persons so appointed or to be appointed as aforesaid, and all and every person and persons who shall be called to his or their aid and assistance, shall have full power and authority to use all ways and means for the detaining and keeping the said Napoleon Buonaparté in such custody, and for the prevention of the rescue or escape of the said Napoleon Buonaparté from and out of such custody, and for the retaking the said Napoleon Buonaparté in case he shall be rescued or shall escape from and out of the same, as might be lawfully used for the detaining and keeping in custody, and for preventing the rescue or escape of, and for the retaking any prisoner of war. s. 2.

Punishing persons attempting a rescue or an escape.

If any person or persons, being a subject or subjects of or owing Allegiance to his Majesty, his Heirs or Successors, shall Rescue or Attempt to Rescue the said Napoleon Buonaparté, or shall knowingly and wilfully Aid or Assist in the Escape of the said Napoleon Buonaparté, or in any attempt to escape from such custody as aforesaid, or from any limits or bounds wherein he now is, or at any time hereafter shall or may be detained and kept in custody as aforesaid, or in which he shall or may be suffered to go at large within the limits of any Island or Country, Territory or Place, or within the limits of any district or bounds within any Island or Country, Territory or Place, upon Parole, or without parole, all and every such person and persons so offending, shall, upon being convicted thereof, be adjudged guilty of Felony, and shall suffer Death as in cases of Felony, without Benefit of Clergy. s. 3.

For preventing the further escape.

If any person or persons, being subjects of or owing Allegiance to his Majesty, his Heirs or Successors, shall knowingly and wilfully aid, assist, or further the said Napoleon Buonaparté in quitting any part of any Island, Country, Territory, or Place, without the limits and bounds of any district of such Island, Country, Territory, or Place within which he may have been confined or suffered to go at large, on parole or without parole, after he shall have been rescued, or have escaped or departed from any place of custody, or from the limits and bounds within which he shall have been committed to go at large, upon parole or without parole, he, she, or they shall be deemed guilty of aiding the escape of the said Napoleon Buonaparté, under the provisions of this act. s. 4.

If any person or persons, being a subject or subjects of his Majesty, or owing allegiance to his Majesty, after the said Napoleon Buonaparté shall have been rescued, or have escaped or departed from and have quitted the Island, Country, District, or Territory within which he shall have been detained and kept in custody as aforesaid, or have been suffered to go at large, upon parole or without, or after he shall have quitted and departed from any other Country into which he may have escaped or come, shall knowingly and wilfully, upon the High Seas, aid, assist, or further the said Napoleon Buonaparté in escaping or going to or towards any other Dominions or Place whatsoever, such person or persons shall be adjudged guilty of Felony, and shall suffer Death as in cases of Felony, without Benefit of Clergy. s. 5.

Prohibiting any assistance of escape upon the high seas.

All Offences against this Act, wheresoever the same shall be committed, whether within the Dominions of his Majesty or without, or upon the High Seas, may be inquired of, tried, heard, determined, and adjudged in any County within that part of his Majesty's Dominions called England, in like manner, and by a Jury of such County, as if such Offences had been committed within such County; and that in every Information or Indictment for such Offence, such Offence may be laid and charged to have been committed in such County. s. 6.

Where offences may be tried

All persons who shall be apprehended, detained, or in custody, charged with any Offence against this Act, may be detained in custody and sent to England, in order to their being proceeded against and tried for such Offence. s. 7.

For detaining persons charged with offences.

If any Action, Suit, Bill, Complaint, Information, or Indictment, shall be brought, sued, or prosecuted against any person or persons for any thing done under or by virtue of this Act, such person or persons may plead the General Issue, and shall have the Advantage thereof as fully, and to all intents and purposes, as if the special matter had been fully and well pleaded, and in such manner as any Justice of the Peace, Constable, or other Officer, questioned for matters acted by them as Officers, or in the execution of their offices, may have the advantage of the matter of their Justification upon the General Issue by them pleaded, by any of the Laws and Statutes of this Kingdom. s. 8.

General issue.

Burglary.

(And see Title REWARDS.)

- § 1. *By Statute 25 H. 8. c. 3. s. 2. Burglars standing Mute, or challenging peremptorily above Twenty, or not answering directly to the Indictment, ousted of Clergy. By s. 3. of the same Statute, such Offenders being convicted in the County where they are found in Possession of Goods, &c. stolen by Burglary in another County, ousted of Clergy upon Proof of the Fact.*
- § 2. *By Statute 1 Ed. 6. c. 12. s. 10. and 18 Eliz. c. 7. breaking any House by Day or by Night, any Person being therein, and put in fear, &c. ousted of Clergy.*
- § 3. *By Statute 3 W. & M. c. 9. s. 1. Counselling, Hiring, or Commanding any Person to commit Burglary, ousted of Clergy.*
So by Statute 5 Ann. c. 31. Persons Receiving, Harboring, or Concealing Burglars, ousted of Clergy.
- § 4. *By Statute 12 Ann. st. 1. c. 7. s. 8. entering any Dwelling House by Day or Night without breaking, with intent to commit Felony, or being therein and committing Felony and breaking such House in the Night time to get out of the same, ousted of Clergy.*

§ 1.
Persons committing burglary ousted of clergy.

The Statute 25 H. 8. c. 3. (s. 2.) (1) enacts, that every person and persons that is or hereafter shall be indicted of Petit Treason, Wilful Burning of Houses, Murther, Robbery, or Burglary, or other Felony, according to the tenor and meaning of the same Statute (2), and thereupon arraigned, and do stand Mute of malice or froward mind, or Challenge Peremptorily above the number of twenty, or else will not or do not answer directly to the same Indictment and Felony whereupon he is so arraigned, shall from henceforth lose the benefit and privilege of his or their clergy, in like manner and form as if he had directly pleaded to the same Petit Treason, Murther, Robbery, Burglary, or other Felony whereupon he is so arraigned, Not Guilty, and thereupon had been found Guilty after the Laws of the Land.

(1) See this Statute at length under Division I. § 2. of title LARCENY and ROBBERY.

(2) 23 H. 8. c. 1. which see under title LARCENY and ROBBERY, *passim*.

The same Statute further enacts (s. 3.), that if any person or persons be hereafter indicted of Felony for stealing of any goods or chattels, in any County within this Realm of England, and thereupon arraigned and be found guilty, or stand Mute of malice, or challenge peremptorily above the number of twenty persons as is aforesaid, or will not upon his said arraignment, directly answer to the same Felony, that then the same person and persons so arraigned and found guilty, or stand mute of malice, or challenge peremptorily above the number of twenty persons, or will not directly answer to the Law, shall lose and be put from the Benefit of their Clergy, in like manner and form as they should have been if they had been indicted and arraigned, and found guilty in the same county where the same Robbery or Burglary was done or committed, if it shall appear to the Justices before whom any such Felons or Robbers be arraigned, by Evidence given before them, or by Examination, that the same felonies whereupon they be so arraigned, had been such Robberies or Burglaries in the same Shire where such Robberies or Burglaries were committed or done, by reason whereof they should have lost the Benefit of their Clergy by force of the said Statute, in case they had been found guilty thereof in the same Shire where such Robberies or Burglaries were so committed or done.

Offenders convicted in the county where they are found in possession of goods, &c. stolen by robbery or burglary in another county, ousted of clergy on proof of the fact.

The statute 1 Ed. 6. c. 12. s. 10. (which see at length under title Larceny and Robbery, I. § 3.) having enacted that in all other cases of Felony, other than such as were thereinbefore mentioned, all and singular person and persons which after 1st March then next following should be arraigned, or found guilty upon his or their arraignment, or should confess the same, or stand mute, or would not answer directly, should have and enjoy the privilege and benefit of his or their Clergy, in like manner as he or they might or should have done before the 24th April, 1 H. 8.; the clause operated as a virtual Repeal of the above section of the Statute 25 H. 8. c. 3. This is recited in the statute 5 & 6 Ed. 6. c. 10. s. 4. and that by reason thereof "divers and many persons that sithen the said first year have committed such Robberies and Burglaries have had and enjoyed their Clergy, which they would not have had, in case the said act made in the said xxv. year had stood in force;" and then, "for redress whereof from henceforth to be had," it is enacted, that the said act made in the said xxv. year, touching the putting of such offenders from their Clergy, and every Article, Clause, or Sentence contained in the same, touching

The third section of stat. 25 H. 8. c. 3. revived and confirmed.

Clergy, shall from henceforth touching such offences from henceforth to be committed and done, stand, remain, and be in full strength and virtue, in such manner and form as it did before the making of the said act (1 Ed. 6. c. 12.); any Clause, Article, or Sentence comprised in the said act (1 Ed. 6.) to the contrary thereof notwithstanding.

§ 2.

No person or persons that at any time hereafter shall be, in due form of the Laws, attainted or convicted of Breaking of any House, by day or by night, any person being then in the same house where the same Breaking hereafter shall be committed, and hereafter shall be thereby put in fear or dread, or being indicted or appealed of any of the same offences (1), and thereupon found guilty by verdict of twelve men, or shall confess the same upon his or their arraignment, or will not answer directly according to the Laws of this Realm, or shall stand wilfully or of malice-mute, shall not be admitted to have or enjoy the privilege or benefit of his Clergy or Sanctuary, but shall be put from the same. 1 Ed. 6. c. 12. s. 10.

Clergy taken away from offenders in burglary.

The statute 18 Eliz. c. 7. enacts, that if any person or persons shall fortune hereafter to commit or do any manner of Felonious Burglary, and to be found guilty of the same by Verdict, or shall be Outlawed for such offence, or upon his or their arraignment shall confess any such Felonious Burglary, that every person and persons so being found guilty, outlawed or confessing any such Burglary, shall suffer pains of Death, and forfeit as in cases of felony has been used and accustomed by the Common Law, without any allowance of the Privilege or Benefit of Clergy.

§ 3.

Offenders counselling, &c. others to commit burglary, or standing mute, &c. or challenging above twenty, ousted of clergy.

All and every person and persons that shall at any time hereafter counsel, hire, or command any person to commit any Burglary, being thereof Convicted or Attainted, or being Indicted thereof, shall stand Mute, or will not directly answer to the Indictment, or shall Peremptorily Challenge above the number of twenty persons returned to be of the Jury, shall not have the Benefit of his or their Clergy. 3 W. & M. c. 9. s. 1.

This act was continued by 4 & 5 W. & M. c. 24. s. 13., and made perpetual by 6 & 7 W. 3. c. 14. s. 1.

The Statute 5 Ann. c. 31. recites that Burglars and House-breakers are much encouraged to commit such Burglaries and Felonies, because a great number of persons make it a trade to

(1) There are numerous offences particularized in this section, which see under title LARCENY and ROBBERY, and other appropriate titles, *passim*.

Receive and Buy of the said Felons the Goods so by them feloniously taken, and also do make it their business to Harbour and Conceal the said Offenders after the said facts, knowing the said Felonies and Burglaries to have been by them committed; and then enacts, (by s. 5.) that if any person or persons shall Receive or Buy any goods or chattels that shall be feloniously taken or stolen from any other person, knowing the same to be stolen, or shall Receive, Harbour, or Conceal any Burglars, Felons, or Thieves, knowing them to be so, shall be taken and received as Accessary or Accessories to the said Felony or Felonies, and being of either of the said Offences legally convicted by the testimony of one or more credible Witnesses, shall suffer and incur the pains of Death as a Felon convict. (And see Title RECEIVING STOLEN GOODS.)

Accessaries after the fact, by receiving felons, ousted of clergy.

Whereas there has been some doubt whether the entering into the Mansion-house of another, without breaking the same, with an intent to commit some Felony, and breaking the said House in the night-time to get out, be Burglary; be it declared and enacted, that if any person shall enter into the Mansion or Dwelling house of another, by Day or by Night, without breaking the same, with an intent to commit Felony, or being in such House shall commit any Felony, and shall in the night-time break the said House to get out of the same, such person is and shall be adjudged and taken to be guilty of Burglary, and shall be ousted of the Benefit of his and her Clergy, in the same manner as if such person had broke and entred the said House in the night-time, with an intent to commit Felony there. 12 Ann. st. 1. c. 7. s. 3.

§ 4. Entering a house without breaking it with intent to commit felony, or being therein and committing felony, and breaking the house in the night to get out, declared to be burglary.

Burning.

(And see Titles ARSON, MALICIOUS INJURIES, MILLS, and other Titles of this Work, *passim*).

§ 1. Burning Wains or Carts laden with Coals, &c.

If any person or persons shall maliciously, willingly, and unlawfully burn or cause to be burned any Wain or Wains, Cart or Carts laden with Coals, or any other Goods or Merchandizes of any other person or persons, that then every such offender shall not only lose and forfeit treble Damages to the party grieved, to be recovered by action of trespass to be taken at the common law, but also $\text{£}10$ sterling to the King, in the way of a fine. 37 H. 8. c. 6.

Penalty on persons burning wains, &c. laden with coal, &c.

§ 2. *Burning any Heap of Wood, prepared &c. for making Coals, Billets, or Talwood.*

Penalty on persons burning wood prepared for coal, billets, or talwood.

If any person or persons shall maliciously, willingly, and unlawfully burn or cause to be burned, any Heap or Heaps of Wood of any other person, prepared, cut, and felled for making of Coals, Billets, or Talwood, that then every such offender shall not only lose and forfeit treble Damages to the party grieved, to be recovered by action of Trespass to be taken at the Common Law, but also £10 sterling to the King in the way of a fine. 37 H. 8. c. 6.

§ 3. *Burning Grig, Ling, Heath, Furze, Goss, or Fern, or abetting or assisting therein.*

Punishment of persons burning heath, furze, &c. at certain periods of the year.

For the better preserving the Red and Black Game of Grouse, commonly called Heath-Cocks or Heath-Polls, no person whatsoever on any Mountains, Hills, Heaths, Moors, Forests, Chases, or other Wastes, shall presume to burn, between the 2d February and 24th June, any Grig, Ling, Heath, Furze, Goss, or Fern; upon pain that the offender or offenders shall be committed to the House of Correction for any time not exceeding one month, and not less than ten days, there to be whipt and kept to hard labour. 4, 5 W. & M. c. 23. s. 11.

Mr. East, in his Treatise on the Pleas of the Crown, makes the following observations on this Statute: "This provision is to be found in an Act made for the general preservation of Game, which in other clauses gives a summary method of prosecution and conviction before one Justice of the Peace, who in default of the offender's paying a certain penalty, is enabled to direct the specific punishment above described to be inflicted on him; and it is probable that the same method of proceeding was intended to be applied to offences described in the 11th section. Yet as such Summary Jurisdiction is not expressly given to Justices of Peace, the common opinion has been, that the trial and conviction must be at the Assises or in the Superior Courts; though if the fact be wilfully done, there seems no reason why the Justices in Sessions may not take cognizance of it as a nuisance, or in some cases even as a breach of the peace.

The subsequent act of 28 G. 2. c. 19. s. 3. does not affect to repeal the abovementioned clause, but merely reciting that the Laws then in being were not sufficient to prevent the offences, enacts, that if any person or persons, not having a right or legal licence to do the same, shall, after the 1st August 1755, set fire

to, burn, or destroy, or shall abet, aid, or assist in or at the burning or destroying of any Goss, Furze, or Fern growing or being in or upon any Forest or Chace within England, without the licence or consent of the owner or proprietor, or the person chiefly entrusted with the care, oversight, and custody of such Forest or Chace, or some part thereof, &c.; the Statute then proceeds to give a Summary Jurisdiction to one or more Justices of the Peace to convict the person so offending in a certain penalty, and to commit him to Gaol, in default of payment, for a "given time." East, P. C. 1048.

§ 4. Burning any Barn, or Stack of Corn, or Grain, in the Northern Counties.

Whoever shall wilfully and of malice burn or cause to be burned, or aid, procure, or consent to the burning of any Barn or Stack of Corn or Grain, within any the said Counties or places aforesaid [i. e. Cumberland, Northumberland, Westmorland, and the Bishoprick of Duresme, are mentioned in the preamble to the Act], and shall be of the said several offences or any of them indicted, and lawfully convicted, or shall stand Mute, or shall Challenge Peremptorily above the number of twenty, before the Justices of Assises, Justices of Gaol Delivery, Justices of Oyer and Terminer, or Justices of Peace, within any of the said Counties, at some of their General Sessions within some of the said Counties to be holden, shall be reputed, adjudged, and taken to be as Felons, and shall suffer pains of Death without any benefit of Clergy, Sanctuary, or Abjuration, and shall forfeit as in case of Felony. 43 Eliz. c. 13. s. 2. Persons outlawed upon this Statute shall be proclaimed by the Sheriff at the places named in the Act; and persons conferring with or relieving such Outlaws, shall be imprisoned six months, and find sureties for one year. s. 4, 5.

Persons burning barns, or stacks of corn, in the northern counties, shall suffer death.

Butcher.

A Butcher that selleth Swines Flesh meazled, or Flesh dead of the Murrain, after he shall be convicted thereof, for the first time he shall be grievously amerced, the second time he shall suffer judgment of the Pillory, and the third time he shall be imprisoned and make fine, and the fourth time he shall forswear the town. And in this manner shall it be done of all that offend in like case. Stats. temp. H. 3. Ed. 1 & 2. c. 7.

The punishment of a butcher selling unwholesome meat.

Cattle.

I. *Larceny of Cattle.*

§ 1. *By Statute 37 H. 8. c. 8. s. 2. 1 Ed. 6. c. 12. s. 10. and 2, 3 Ed. 6. c. 33. persons stealing any Horse, Gelding, Mare, Fole, or Filly, being Convicted, or Confessing, or standing Mute, or challenging peremptorily above 20, ousted of Clergy.*

By statute 14 G. 2. c. 6. persons stealing Sheep or other Cattle, or wilfully Killing with intent to steal the Carcase, &c. or aiding or assisting therein, ousted of Clergy.

The above stat. 14 G. 2. declared to extend to any Bull, Cow, Ox, Steer, Bullock, Heifer, Calf, and Lamb, and to no other Cattle.

§ 2. *By statute 31 Eliz. c. 12. s. 5. Accessories before and after in Horse-stealing ousted of Clergy.*

§ 3. *By the statute 31 Eliz. c. 12. s. 4. regulations are enacted as to the restitution of Horses stolen.*

II. *Maliciously Killing or Maiming Cattle.*

By statute 37 H. 8. c. 6. maliciously cutting out the Tongue of any Beast, a misdemeanor.

By statute 22, 23 Car. 2. c. 7. maliciously in the night-time killing or destroying any Cattle, felony.

By statute 9 G. 1. c. 22. maliciously killing, maiming, or destroying Cattle, or rescuing any person in custody for such offence, or procuring others to join in any such act, ousted of Clergy.

III. *Delivering, sending, receiving, or taking, &c. on board ship, live Rams, Sheep, or Lambs, to be conveyed out of the Kingdom, a misdemeanor by 28 G. 3. c. 38.*

I. *Larceny of any Horse, Mare, Gelding, Fole, Filly, Sheep, Bull, Cow, Ox, Steer, Bullock, Heifer, Calf, and Lamb, and killing Sheep or other Cattle, with intent to steal the Carcase, &c.*

§ 1.
Offenders convicted of stealing horses, &c. or standing mute, &c. shall lose their clergy.

If any person or persons at any time do steal any Horse, Gelding, Mare, Fole, or Filly, and thereof be found guilty by the Verdict of twelve men, or by his own confession be attainted, or otherwise be indicted for such offence, and thereupon arraigned, and do stand Mute of malice or froward mind, or challenge peremptorily above 20, or else will not answer directly to the same indictment and felony whereupon he is so arraigned, every such person and persons shall not be admitted to have the benefit of his or

their clergy, but utterly be excluded thereof, and shall suffer death. 37 H. 8. c. 8. s. 2:

The statute 1 Ed. 6. c. 12. s. 10. enacts, that no person or persons, that at any time hereafter shall be in due form of law attainted or convicted for felonious stealing of Horses, Geldings, or Mares, or being indicted or appealed of any of the same offences (1), and thereupon found guilty by verdict of twelve men, or shall confess the same upon his or their arraignment, or will not answer directly, according to the Laws of this Realm, or shall stand wilfully or of malice Mute, shall not be admitted to have or enjoy the privilege or benefit of his Clergy or sanctuary, but shall be put from the same.

Persons stealing cattle ousted of clergy.

The Statute 2, 3 Ed. 6. c. 33. reciting a doubt upon the words of 1 Ed. 6. c. 12. s. 10. whether a person stealing one Horse, Gelding, or Mare, ought to be allowed Clergy, declares and enacts, that every person feloniously taking or stealing any Horse, Gelding, or Mare, shall not be admitted to have or enjoy the benefit of his or their Clergy, but shall be put from the same in like manner as though they had been indicted or appealed for felonious stealing of two Horses, two Geldings, or two mares of any other, and thereupon found guilty by verdict of twelve men, or confessed the same, or stand wilfully or of malice Mute.

Persons stealing one horse, &c. ousted of clergy.

Whereas many evil-disposed persons have of late more generally and frequently than was ever known before, made it their practices secretly in the night-time to drive away and steal great numbers of Sheep, and likewise secretly in the night-time to kill great numbers of Sheep and to strip off their skins and then steal the carcasses of the Sheep so killed, leaving their skins behind to prevent discoveries, and also in like manner to kill great numbers of Sheep, and then cut open the Sheep so killed, and take out and steal their inward fat, leaving their carcasses behind to prevent being discovered, by which wicked practices many of his Majesty's good subjects have been very greatly injured in their properties, and put to very great charges in having their Sheep and other Cattle watched: and whereas the Laws in being have not proved effectual to prevent the increase of the said wicked practices; be it therefore enacted, that if any person or persons shall at any time from and after 1 May 1741, feloniously drive away or in any other manner feloniously steal one or more Sheep or other Cattle of

Persons stealing sheep or other cattle, or killing

(1) Many different offences are particularized in this section of the act, all of which will be found under the proper divisions of this work.

them with intent to steal the carcase, or any part thereof, declared guilty of felony without clergy;

and also aiders and assisters.

To what sorts of cattle the act shall extend.

§ 2.

All accessaries in stealing horses, mares, &c. shall lose their clergy.

§ 3.

The sale of any stolen horse, mare, &c. in open fair or market shall not take away the owner's property, who may have restitution thereof on claiming the same within six months, and on paying the possessor the price paid by him.

Kelyng, 48.

any other person or persons whatsoever, or shall wilfully Kill one or more Sheep or other Cattle of any other person or persons whatsoever with a felonious intent to steal the whole Carcase or Carcases, or any part or parts of the carcase or carcases of any one or more Sheep or other Cattle that shall be so killed, or shall Assist or Aid any person or persons to commit any such offence or offences, that then the person or persons guilty of any such offence, being thereof convicted in due form of law, shall be adjudged guilty of Felony, and shall suffer Death as in cases of felony without benefit of clergy. 14 G. 2. c. 6.

By s. 2. of this act a reward of ten pounds was given to the apprehenders and prosecutors on conviction of offenders; but this is repealed by stat. 58 G. 3. c. 70. See title REWARDS.

The statute 15 G. 2. c. 84. recites the foregoing statute 14 G. 2. c. 6. (s. 1.) and that "it is doubtful to what sorts of Cattle besides Sheep the said act was meant to extend," and then enacts and declares, that the said act was meant and intended, and shall be construed, deemed, and taken to extend, to any Bull, Cow, Ox, Steer, Bullock, Heifer, Calf and Lamb, as well as Sheep, and to no other Cattle whatsoever.

The statute 31 Eliz. c. 12. s. 5. enacts, that not only all Accessaries before such felony done (i. e. stealing any Horse, Mare, Gelding, Colt, or Filly), but also all accessaries after such felony, shall be deprived and put from all benefit of their clergy, as the Principal by Statute heretofore is or ought to be.

If any Horse, Mare, Gelding, Colt, or Filly shall be stolen, and after shall be sold in open fair or market, and the same sale shall be used in all points and circumstances as aforesaid, [see s. 1, 2. of the act, and also 2, 3 P. & M. c. 7.] that yet nevertheless the sale of any such Horse, Mare, Gelding, Colt, or Filly, within six months after the felony done, shall not take away the property of the owner from whom the same was stolen, so as claim be made within six months by the party from whom the same was stolen, or by his executors or administrators, or by any other by any of their appointment, at or in the town or parish where the same Horse, Mare, Gelding, Colt, or Filly shall be found, before the Mayor or other Head Officer of the same town or parish, if the same Horse, Mare, Gelding, Colt, or Filly shall happen to be found in any Town Corporate or Market Town, or else before any Justice of Peace of that county near to the place where such Horse, Mare, Gelding, Colt, or Filly shall be found, if it be out of a Town Corporate or Market Town, and so as proof be made within forty days then next ensuing, by two sufficient witnesses, to be produced and de-

posed before such Head Officer or Justice (who by virtue of this act shall have authority to minister such oath), that the property of the same Horse, Mare, Gelding, Colt, or Filly so claimed was in the party by or from whom such claim is made, and was stolen from him within six months next before such claim, but that the party from whom the said Horse, Mare, Gelding, Colt, or Filly was stolen, his executors or administrators, may at all times after, notwithstanding such sale in any fair or market thereof made, have property and power to have, take again, and enjoy the said Horse, &c. upon payment or readiness or offer to pay to the party that shall have the possession and interest of the same horse, &c., if he will receive and accept it, so much money as the same party shall depose and swear before such Head Officer or Justice of Peace that he paid for the same bona fide, without fraud or collusion. 81 Eliz. c. 12. s. 4.

II. Maliciously Killing or Maiming Cattle.

If any person or persons maliciously, unlawfully, and willingly cut or cause to be cut out the tongue or tongues of any tame Beast or Beasts of any other person or persons, the said Beast then being in life, he shall not only forfeit to the party grieved treble damages for such offence, but also £10 sterling to the King in the name of a fine. 37 H. 8. c. 6.

Penalty on persons cutting out the tongues of beasts.

For the preamble to this statute, see title MALICIOUS MISCHIEFS, III.

The statute 22 & 23 Car. 2. c. 7. reciting that evil-disposed persons, intending the ruin and impoverishment of their fellow-subjects, have devised, and of late secretly in the night-time and at other times when they think their deeds are not known, frequently practised in several parts of this Kingdom, cutting, maiming, wounding, and killing of Horses, Sheep, Beasts, and other Cattle, enacts, that where, in any part of this Kingdom, any person or persons shall, in the night-time, maliciously, unlawfully, and willingly kill or destroy any Horses, Sheep, or other Cattle, of any person or persons whatsoever, every such offence shall be adjudged Felony, and the offenders and every of them shall suffer as in case of felony. s. 2.

3 Inst. 66, 67.

Offenders wounding, &c. or killing horses, sheep, or other cattle in the night, ousted of clergy.

But not to work any corruption of Blood, loss of Dower, or disinherittance of heirs. s. 3.

No corruption of blood, &c.

In case any person or persons, who shall be convict or attainted of any of the offences made Felony by virtue of this act as aforesaid (to avoid Judgment of Death, or Execution thereupon for such his offence) shall make his election to be Transported

Offenders may elect to be transported. 1 Hawk. P. C. 105.

1 Hale P. C.
566, &c.

beyond the Seas to any of his Majesty's plantations, that then the Justices of Assise, Oyer and Terminer, Gaol Delivery, or Justice of the Peace, before whom such offender shall be convict or attain by virtue of this act, and every of them respectively, shall cause Judgment to be entred against every such offender, that he be transported beyond the Seas to some of his Majesty's plantations in the said Judgment to be particularly mentioned and expressed, there to remain for the space of seven years; and that in pursuance of the said Judgment the Sheriff or Sheriffs of the County or City where such offender shall be so convict or attainted, shall cause the said offender to be safely conveyed and embarked to be transported as aforesaid; and if any such offender shall return into this Kingdom before the Expiration of the said seven years, he shall suffer Death as a Felon, as if no such election to be transported had been made by him. s. 4.

Such Offenders
returning shall
lose their Clergy.

Treble damages
to the party in-
jured by maim-
ing Cattle not
thereby utterly
destroyed.

If any person or persons shall, in the night-time, maliciously, unlawfully, and willingly maim, wound, or otherwise hurt any Horses, Sheep, or other Cattle, whereby the same shall not be killed or utterly destroyed, every such offender shall forfeit to the party grieved treble the damages sustained thereby, to be recovered by action of trespass or upon the case. s. 5. See s. 1. of 9 G. 1. c. 22. making this offence a capital Felony, title BLACK ACT.

Three Justices
of Peace may
inquire of of-
fences under
this act.

Upon complaint and request of the party or parties injured in any such manner, any three or more Justices of the Peace for the County, Division, City, Town Corporate, or Place where such offence shall be committed, whereof one to be of the quorum, shall and may, and they are thereunto authorized and required by virtue of this act, to inquire, as well by the oaths of twelve lawful men or more of the same County, as by examination of witnesses upon oath, or by any lawful ways or means which to them shall seem meet, of and concerning any the offences before incurred, and offenders therein, and in order thereunto to issue out warrants, as well for the summoning of Jurors, as for the apprehending of all such persons as shall or may be thereof suspected, and to take their examination touching the same, as also to cause all such other persons, as to them shall seem likely to make discovery thereof, to appear before them, and to give information upon oath of and concerning their knowledge of the premises, so as no person so to be examined by the said Justices of the Peace shall be convicted or in anywise proceeded against for or by reason of any offence concerning which he or they shall be so examined as a witness,

and shall upon such his examination make a true discovery thereof; and in case any person or persons, who by the said Justices be thought likely to make discovery as aforesaid, shall refuse to appear or to be examined as a witness, being duly summoned by the said Justices in pursuance of this act, it shall be lawful to the said Justices of the Peace to commit the party so refusing to the common gaol for the said County, without Bail or Mainprize, until he shall submit to be examined upon oath of and concerning his knowledge touching the same offence, or the offenders by whom the same was committed. s. 6.

By s. 7. Offenders punished under this Act shall not be punished by any other Law, and they shall be proceeded against within six months after the Offence committed. Limitation of prosecutions.

By the Statute 9 G. 1. c. 22. (commonly called the *Black Act*, for which see that Title), it is enacted, that if any person or persons, after 1 June 1723, shall unlawfully and maliciously kill, maim, or wound any Cattle, or shall forcibly rescue any person being lawfully in Custody of any Officer or other person for any of the Offences before mentioned; or if any person or persons shall, by gift or promise of Money or other Reward, procure any of his Majesty's subjects to join him or them in any such unlawful act; every person so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in cases of Felony without Benefit of Clergy. Persons maliciously killing or maiming Cattle, or forcibly rescuing such offenders, or procuring others to join them in such acts, declared guilty of felony, without clergy.

By s. 4, 5. Offenders not surrendering themselves after Proclamation, and persons concealing Offenders after the time appointed for such surrender, are also ousted of Clergy. See these sections under title *Black Act*.

By s. 14. Offenders may be tried in any County in England, and Corruption of Blood is saved.

III. *Delivering, sending, receiving, or taking, &c. on board Ship, live Rams, Sheep, and Lambs, to be conveyed out of the Kingdom.*

The Statute 28 G. 3. c. 38. (1) "to explain, amend, and reduce into one Act of Parliament, several Laws now in being for preventing the exportation of live Sheep, Rams, and Lambs, from this Kingdom, and from the Isles of Jersey, Guernsey, Alderney, Sark, and Man, into foreign parts;" recites, that the

(1) This act also prohibits the Exportation, &c. of Wool and certain specified Woollen Articles, which regulations will be found under title **WOOL**.

several Acts of Parliament now in force for preventing and prohibiting the exportation of live Sheep, Rams, and Lambs, from and out of this Kingdom, and the Isles of Jersey, Guernsey, Alderney, Sark, and Man, into foreign parts, and the regulations and restrictions made and specified in the said several Acts, have in many respects been found insufficient to answer the good purposes intended thereby; and that it would tend more effectually to prevent the exportation of the said several articles if the said Acts, or so much thereof as concern the said several articles, were repealed; and such and so many of the powers, provisions, regulations, and restrictions therein contained, with such amendments and additions as may be expedient and requisite for affecting the above-mentioned important purpose, were comprised in one Act; and then enacts, that all and singular the several Acts of Parliament now in force, or so much thereof as relate in any manner to the carrying Coastwise, or to the said Isles or any of them, or to prevent the exportation of the following articles, goods, or commodities, (that is to say), live Sheep, Rams, and Lambs, shall be and the same are hereby repealed; and that from and after the passing hereof, this Act, and all the powers, provisions, and regulations herein contained, respecting all or any of the before enumerated articles, goods, or commodities, shall commence, take effect, and be in force, in such manner as are herein-after mentioned. s. 1.

All acts in force, in as far as they relate to the carrying coastwise, &c. or to the exportation of live sheep, rams, and lambs, repealed.

If live sheep, &c. be conveyed out of Great Britain or Jersey, &c. they and the vessel are forfeited;

and the persons assisting therein to pay 3l. for each sheep, and suffer three months imprisonment;

If any person or persons whosoever shall, from and after the passing of this act, bring, deliver, send, receive, or take, or cause or procure to be brought, delivered, sent, received, or taken, into any Ship, Vessel, or Boat, any Rams, Sheep, or Lambs, of any sort or description whatsoever, of the breed of the Kingdom of Great Britain, or of the Isles of Jersey, Guernsey, Alderney, Sark, or Man, being alive, to be carried and conveyed out of the said Kingdom of Great Britain, or any of the said Isles, the said Rams, Sheep, or Lambs, and also the Ship, Vessel, or Boat, on board of which the same shall be taken or received, shall become forfeited, and liable to be seized and secured for the benefit of any person or persons seizing the same; and every such person and persons so offending, his, her, and their Aiders, Abettors, Procurers, and Comforters, knowing thereof, and who shall be thereof convicted, shall, for every Sheep or Lamb which shall be brought, delivered, sent, received, or taken, with any such intent as aforesaid, into any ship, vessel, or boat, forfeit the sum of three pounds of lawful money of Great Britain, and shall also suffer solitary imprisonment in the Common Gaol or House

of Correction of the County, Riding, Division, Shire, or Stewartry, wherein such offender or offenders shall be respectively convicted, for the space of Three Calendar Months, without bail or mainprize, and until such forfeiture shall be paid, so as the whole of such imprisonment for the nonpayment of such forfeiture shall not exceed the space of twelve calendar months; and in case of any further conviction for or upon a second or other subsequent Offence of the same kind, the person or persons so again offending shall, upon every second or other subsequent conviction, forfeit and pay for every such sheep or lamb the sum of five pounds of lawful money of Great Britain, and shall also suffer solitary imprisonment in the Common Gaol or House of Correction of the County, Riding, Division, Shire, or Stewartry wherein such offender or offenders shall be respectively convicted, for the space of Six Calendar Months, without bail or mainprize, and until such forfeitures shall be paid, so as the whole of the imprisonment for the nonpayment of the forfeiture incurred by such second or other subsequent offence shall not exceed the space of Two Years; all of which said several forfeitures shall be for the benefit of the person or persons who shall sue for the same: Provided always, that nothing in this act contained shall in anywise extend to subject any person or persons, or any ship, vessel, or boat, to any of the pains, penalties, or forfeitures herein contained, for the carrying or conveying away of any Wether Sheep, to be carried alive in any ship, vessel, or boat, out of the Kingdom of Great Britain, or out of any of the said Isles, for and towards the only necessary Food and Diet of or for the Master or Commander, Mariners, Passengers, or persons therein, and for and towards no other purpose whatsoever. s. 2. (1)

and for a subsequent offence
5l. for each
sheep, and to
suffer six months
imprisonment.

Forfeitures to be
to the persons
suing for the
same.

Not to extend
to live Sheep
carried for diet
of Crew.

(1) The statute 8 Eliz. c. 3. s. 1. enacts, that no manner of person shall bring, deliver, send, receive, or take, or procure to be brought, delivered, sent, or received, into any ship or bottom, any rams, sheep, or lambs, or any manner of other kind of sheep, being alive, to be carried and conveyed out of this Realm of England, Wales, or Ireland, or out of any the Queen's Dominions, upon the pain that every such person and persons, their aiders, abettors, procurers, and comforters, shall, for his or their first offence, forfeit and lose all his goods for ever; one moiety to the Queen, and the other moiety to the party suing for the same in any Court of Record.

And further, every such offender shall suffer imprisonment by the space of one whole year, without bail or mainprize; and at the year's end shall, in some open Market Town, in the fullness of the Market,

No live wether sheep to be shipped for diet without licence from the Port Officer of the Customs.

Licence to specify the number of sheep, which must be shipped in the presence of the Officer, on penalty of forfeiture and 20 s. for each sheep.

Provided always, that no live Wether Sheep shall be put or carried on board any ship, vessel, or boat, for the necessary food or diet of the Master or Commander, Mariners or Passengers therein, until an application shall have been made to the Comptroller and Collector of the Customs of such Port or place where the same are intended to be shipped, and a Licence obtained from them for the shipping thereof, which licence shall specify the number of wether sheep so to be put on board such ship or vessel; and they shall in no case exceed such number as in the judgment of the officers granting such licence shall be deemed sufficient for the use of such Master or Commander, Mariners, or Passengers, during the intended voyage of such ship or vessel, according to the distance thereof, nor shall the same be shipped but in the presence of the proper officers appointed to attend the same, upon pain that the sheep so put on board shall become forfeited to the person or persons seizing the same, and the person or persons shipping or attempting to ship the same shall, for every such offence, forfeit and pay the sum of twenty shillings for every such sheep to the person or persons who shall inform thereof. s. 3.

Where there is no Officer, the licence to be granted by the Officers at the nearest place, &c. s. 4. Not to extend to vessels bound to or from any place between the Mull of Cantire and Cape Wrath. s. 5. Nor to the moving sheep from the main land to Islands within the Firths of Scotland, where estates consist of both. s. 6. Proprietors, &c. of such estates to give Bond not to export sheep to foreign parts, and to obtain a licence for so moving them. Licence to contain the name of the person to whom granted, &c., and to continue in force 'til the Bond be forfeited; Bond and copy of licence shall be

on the Market-day, have his left hand cut off, and that to be nailed up in the openest place of such Market; and that every person estsoons offending against this statute, shall be adjudged a Felon, and shall suffer Death as in cases of Felony. s. 2.

Not to extend to create corruption of blood, or work loss of dower. s. 3.

The Justices of Oyer and Terminer, and Justices of Gaol Delivery, and Justices of Peace, within England and other the Queen's Dominions, shall inquire of offenders, and hear and determine offences against this act. s. 4. The statute 28 G. 3. c. 38. does not notice the act of 8 Eliz. which is so highly penal, though the former is virtually repealed by the general words of the latter statute.

sent to the Commissioners of Customs at Edinburgh. s. 7. Persons making Insurance on sheep punishable as Exporters of sheep, and the sheep insured shall be forfeited. s. 46. Persons concerned in such insurances, giving information thereof to Commissioners of Customs, shall have the sheep, &c. s. 47. Commanders of King's ships may search vessels, and seize such live sheep on board without licence s. 49. And such Commanders neglecting their duty, forfeit £40. s. 51. No person, except an Officer of the Customs, shall seize sheep, but with the assistance of a Constable. s. 52. Constables neglecting their duty, forfeit £10. s. 53. All persons acting under authority of the Commissioners of Customs shall be deemed their Officers. s. 54. Punishment of persons making collusive seizures. s. 55. Persons obstructing any one in the execution of this act, shall be transported, and returning, ousted of Clergy. s. 56. Penalty on offering bribes, £300. s. 57. Officers of Excise, Customs, or Salt Duties, neglecting their duty, punishable as exporters. s. 58. In all prosecutions, proof shall lie on the defendant. s. 60. Actions, Prosecutions, &c. when to be commenced. s. 61. Summary jurisdiction not to extend beyond £200. s. 62. Sale of seizures and levying penalties. s. 63. Offenders exporting or attempting to export sheep, shall be apprehended and taken before a Justice of Peace. s. 65. Recognizance to prosecute. s. 66. Appeals. s. 69. Offenders may be bailed. s. 73. Rewards to prosecutors. s. 76. Certain persons concerned in offences against this act, making discovery thereof, indemnified. s. 79.

All the above provisions, which, to save unnecessary repetitions, are thus shortly noticed, will be found at length under title Wool.

The Statute 32 G. 3. c. 32. recites, that by the Statute 6 G. 3. c. 50. for allowing the conveyance from Southampton and Portsmouth to Cowes in the Isle of Wight, of sheep and cattle, between the said Ports, without cocket or bond being taken or entered into for that purpose, it was enacted, that no cocket or bond should be required for carrying or conveying sheep (provided the same be carried in open boats or hoys) nor any other kind of cattle (horses and lambs excepted), between Cowes in the Isle of Wight and Portsmouth and Southampton; and that by the statute 28 G. 3. c. 38. the said act 6 G. 3. c. 50. was repealed in respect to the conveyance of sheep between Cowes and Southampton and Portsmouth; and that it is expedient that the said first recited act [of 6 G. 3.] so far as the same relates to the Ports of Cowes, Southampton, and Portsmouth respectively, should be revived and continued in force,

Sheep, lambs, and horses may be conveyed between the Ports of Cowes in the Isle of Wight and Southampton and Portsmouth.

and should extend to permit the removal of horses between the Ports of Southampton, Portsmouth, and Cowes respectively, when not exceeding six in number in any one vessel, and of any number of all other cattle, except Sheep and Lambs, without any sufferance or other Custom House document whatsoever, and of lambs without cocket or bond, as well as sheep; and then enacts, that the said recited act [of 6 G. 3.] shall from and after 1st July 1792, so far as the same shall relate to the said Ports of Cowes, Southampton, and Portsmouth, be Revived, and shall continue in force and effect the same as if the said recited act of the twenty-eighth year of his present Majesty's Reign had not been made.

By s. 2. from and after the said 1st July 1792, it shall and may be lawful for any person or persons whatsoever to carry or convey Horses, when not exceeding six in number in any one vessel, and any number of all other cattle (sheep and lambs excepted), without obtaining any sufferance or other Custom House document whatever, between Cowes and Southampton and Portsmouth, and also lambs, without taking out any cocket, or giving any security by bond or otherwise, for the due landing the same, provided the same be carried in open boats or heys, in like manner as sheep are required to be carried by the said recited act of 6 G. 3.

Certiorari (Writ of).

No Certiorari shall be issued till signed by a Judge;

on penalty of £5 on the writer.

No Writ of Habeas Corpus or Certiorari shall be hereafter granted, to remove any Prisoner out of any Gaol, or to remove any Recognisance, except the same Writ be signed with the proper hands of the Chief Justice, or in his absence one of the Justices of the Court out of which such Writs shall be awarded, upon pain that he that writeth any such Writs, not signed as is aforesaid, to forfeit to the King, for every such Writ and Writs, Five Pounds. 1, 2 P. & M. c. 13. s. 7.

Champerty.

(And see Titles CONSPIRACY, MAINTENANCE.)

King's Officers shall not maintain pleas.

No Officer of the King, by themselves nor by other, shall maintain Pleas, Suits, or Matters belonging to the King's Courts, for Lands, Tenements, or other things, for to have part or profit thereof by Covenant made between them, and he that doth shall be punished at the King's pleasure. 3 Ed. 1. c. 25.

Where it is contained in our Statute that none of our Court shall take any plea to Champerty by craft nor by engine, and that no Pleadors, Apprentices, Attornies, Stewards of great men, Bailiffs, nor any other of the Realm, shall take for Maintenance or the like bargain, any manner of suit or plea against other, whereby all the Realm is much grieved, and both rich and poor troubled; it is provided, by a common accord, that all such as from henceforth shall be attainted of such Emprizes, Suits, or Bergains, and such as consent thereunto, shall have imprisonment of three years, and shall make fine at the King's pleasure. 33 Ed. 1. st. 3.

The punishment of Champertors.

Item, where in times past divers people of the Realm, as well great men as other, have made Alliances, Confederacies, and Conspiracies, to maintain Parties, Pleas, and Quarrels, whereby divers have been wrongfully disinherited, and some ransomed and destroyed, and some, for fear to be maimed and beaten, durst not sue for their right nor complain, nor the Jurors of Inquests give their verdicts, to the great hurt of the people, and slander of the Law and common right; it is accorded, that the Justices of the one Bench and of the other, and the Justices of Assises, whensoever they come to hold their Sessions, or to take Inquests upon *Nisi Prius*, shall enquire, hear, and determine, as well at the King's suit as at the suit of the party, of such Maintainers, Bearers, and Conspirators, and also of them that commit Champerty, and of all other things contained in the aforesaid article, as well as Justices in Eyre should do if they were in the same county; and that which cannot be determined before the Justices of the one Bench or the other upon the *Nisi Prius*, for shortness of time, shall be adjourned into the place whereof they be Justices, and there be determined as Right and Reason shall require. 4 Ed. 3. c. 11.

Regist. 186.
F. N. B. 115 H.
Regist. 183.
Rast. 119.

Justices of Assise shall try all offences of Maintenance, Champerty, and Conspiracy.

All Statutes concerning Maintenance, Champerty, and Embracery, shall be put in execution. 32 H. 8. c. 9.

No person shall bargain, buy or sell, or by any means obtain, get, or have, any pretended Rights or Titles, or take, promise, grant, or covenant to have any right or title of any person in or to any Manors, Lands, Tenements, or Hereditaments (except such person which shall so bargain, sell, give, grant, covenant, or promise the same, their ancestors, or he by whom they claim the same, have been in possession of the same or the Reversion, or taken the Rents or Profits thereof, by one whole year before such bargain, covenant, grant, or promise made), upon pain that he

The punishment of such as buy or sell pretended titles to lands, &c.

who shall make such bargain, sale, promise, covenant, or grant, to forfeit the whole value of the Lands, &c. so bargained, &c., and the buyer and taker thereof, knowing the same, to forfeit also the value of such Lands, &c. so by him bought or taken, one half to the King and the other half to the party suing in the Courts of Record, by action of debt, &c. in which no Essoign, &c. shall be allowed. s. 2.

The punishment
of Maintenance
and Embracery.

No person shall unlawfully maintain, or cause or procure any unlawful maintenance, in any action, demand, suit, or complaint, in any of the Court of Chancery, Star Chamber, Whitehall, or elsewhere, where any person have authority by commission, patent, or writ, to hold plea of Lands, or to examine, hear, or determine any title of Lands, or any matter or witnesses concerning the title, right, or interest of any Lands, Tenements, or Hereditaments; and that no person shall unlawfully retain for maintenance of any suit or plea any person, or embrace any freeholders or persons, or suborn any witness by letters, rewards, promises, or any other sinister means, to maintain any matter or cause to the disturbance or hindrance of Justice, or to the procurement of any perjury in any Courts aforesaid; upon pain to forfeit £40, one moiety to the King and the other to the party suing by action, &c. in the King's Courts, in which no Essoign, &c. shall be allowed. s. 3.

Not to extend to buying, &c. pretended titles to Manors, &c. whereof the party buying is in lawful possession. s. 4.

Proclamation shall be made at the Assises of all Statutes against Maintenance, Embracery, and Champerty. s. 5.

Clergy (BENEFIT OF).

§ 1. *By Statute 4 H. 7. c. 13. no person shall be allowed the Benefit of their Clergy more than once.*

§ 2. *By Statute 25 H. 8. c. 3. s. 3. Offenders convicted in the County where they are found with Goods which were taken by Burglary or Robbery in another County, ousted of Clergy, upon proof of those circumstances. And see § 5.*

§ 3. *By 18 Eliz. c. 7. s. 2. Offenders allowed their Clergy shall not be delivered to the Ordinary, but be delivered out of Prison, or they may be imprisoned not exceeding one year.*

§ 4. *By Statute 3 W. & M. c. 9. s. 2. Offenders who by any former Statute lose their Clergy on conviction or confession, ousted of Clergy on standing Mute, challenging peremptorily above twenty, or being Outlawed.*

§ 5. *Persons convicted of having in one County Goods, &c. stolen by Robbery or Burglary in another, ousted of Clergy on proof thereof, by 3 W. & M. c. 9. s. 3.*

§ 6. *By the same Statute (s. 7.), a Woman convicted of Felonies within Clergy, shall receive the same Judgment as a Man would for a like Offence.*



Item, whereas upon trust of the Privilege of the Church, divers persons lettered have been the more bold to commit Murder, Rape, Robbery, Theft, and all other mischievous deeds, because they have been continually admitted to the Benefit of the Clergy, as often as they did offend in any of the premises; in avoiding such presumptuous boldness, it is enacted, that every person, not being within Orders, which once hath been admitted to the Benefit of his Clergy, eftsoons arraigned of any such offence, be not admitted to have the Benefit or Priviledge of his Clergy; and that every person so convicted for Murder to be marked with an M. upon the Braun of the left Thumb, and if he be for any other Felony, the same person to be marked with a T. in the same place of the thumb; and those marks to be made by the Gaoler openly in the Court before the Judge, before that such person be delivered to the Ordinary: provided alway, if any person at the second time of asking his Clergy, because he is within Orders, hath not then and there ready his letters of his Orders, or a certificate of his Ordinary witnessing the same, that then the Justices before whom he is so arraigned shall give him a day, by their discretion, to bring in his said letters or certificate, and if he fail and bring not in at such a day his said letters nor certificate, then the same person to lose the benefit of his Clergy, as he shall do that is without Orders.

4 H. 7. c. 13.

If any person or persons be indicted of Felony for stealing of any Goods or Chattels in any County within this Realm of England, and thereupon arraigned and be found guilty, or stand Mute of malice, or challenge peremptorily above twenty persons, or will not upon his arraignment directly answer to the same Felony, that then the same person so arraigned and found guilty, or stand mute of malice, or challenge peremptorily above twenty persons, or will not directly answer to the Law, shall lose and be put from the Benefit of their Clergy, in like manner as they should have been if they had been indicted and arraigned and found guilty in the same County where the same Robbery

§ 1.

Hob. 288. 294.
Rast. pl. f. 56.
Co. Litt. 50.
Bro. Coron. 211.
No person shall be admitted more than once to the Benefit of their Clergy.

§ 2.

Offenders convicted in the County where goods were found, which were taken by Burglary or Robbery in another, ousted of Clergy, upon evidence of such fact being given.

or Burglary was committed, if it shall appear to the Justices before whom any such felons or robbers be arraigned, by evidence given before them, or by examination, that the same Felonies whereupon they be so arraigned had been such robberies or burglaries in the same Shire where such Robberies or Burglaries were committed, by reason whereof they should have lost the Benefit of their Clergy by force of the Statute (23 H. 8. c. 1.) in case they had been found guilty thereof in the same Shire where such robberies or burglaries were so committed. 25 H. 8. c. 3. s. 3. (1.)

The third section of the statute 25 H. 8. c. 3. revived and confirmed.

The Statute 1 Ed. 6. c. 12. s. 10. (which see under titles LARCENY and ROBBERY, I. § 3. BURGLARY, § 1.) having enacted that in all other cases of Felony other than such as were therein before mentioned, all and singular person and persons which after 1 March then next following, should be arraigned or found guilty upon his or their arraignment, or should confess the same, or stand mute, or would not answer directly, should have and enjoy the Privilege and Benefit of his or their Clergy, and the Liberty and Privilege of Sanctuary, in like manner and form as he or they might or should have done before the 24 April, 1 Hen. 8.; the clause operated as a virtual repeal of the above section of the Statute 25 H. 8. This is recited in the Statute 5, 6 Ed. 6. c. 10. s. 4. and that "by reason thereof divers and many persons that sithen the said first year have committed such robberies and burglaries [under the circumstances mentioned in the above Statute 25 H. 8. c. 3. s. 3.] have had and enjoyed their Clergy, which they could not have had in case the said Act made in the said 25th Year had stood in force," and then "for redress whereof from henceforth to be had," it is enacted, that the said Act made in the said 25th Year, touching the putting of such Offenders from their Clergy, and every article, clause, or sentence contained in the same touching Clergy, shall from henceforth touching such offences from henceforth to be committed and done, stand, remain, and be in full strength and virtue in such manner and form as it did before the making of the said Act [1 Ed. 6. c. 12.]; any clause, article, or sentence comprised in the said Act [1 Ed. 6.] to the contrary thereof notwithstanding.

Persons allowed their Clergy shall be tried for other felonies.

Persons who upon their arraignment shall be admitted to their Clergy, and delivered to the Ordinary, and make purgation therefore, who before such admission to such Clergy have com-

(1) For the preamble to this statute, see title LARCENY and ROBBERY. XXII.

mitted any offence not clergyable, and not having been tried therefore, shall be tried thereon as if no such admission of Clergy had been. 8 Eliz. c. 4. s. 4.

Every person hereafter admitted to have the Benefit of Clergy shall, notwithstanding his admission to the same, be put to answer to all other felonies whereof he shall hereafter be indicted or appealed, and not being thereof before acquitted, convicted, attainted, or pardoned, and shall in such manner be arraigned, tried, adjudged, and suffer such execution for the same, as he should have done if as a Clerk convict he had been delivered to the Ordinary, and there made his purgation. 18 Eliz. c. 7. s. 5.

Persons allowed their Clergy shall not be delivered to the Ordinary, but after being burnt in the hand according to the Statute, shall be delivered out of prison. 18 Eliz. c. 7. s. 2.

The Justices before whom such allowance of Clergy shall be had, shall and may, for the further correction of such persons to whom Clergy is so allowed, detain and keep them in prison for such convenient time as the same Justices in their discretion shall think convenient, so as the same do not exceed one year's imprisonment. s. 3.

If any person or persons whatsoever be indicted of any offence for which, by virtue of any former Statute, he or they are excluded from having the Benefit of his or their Clergy, if he or they had been thereof convicted by verdict or confession, if he or they stand Mute, or will not answer directly to the felony, or shall challenge peremptorily above the number of twenty persons returned to be of the Jury, or shall be outlawed thereupon, shall not be admitted to the Benefit of his or their Clergy. 3 W. & M. c. 9. s. 2.

If any person or persons hereafter be indicted of felony, for stealing of any goods or chattel in any County within this Realm of England, Dominion of Wales, or Town of Berwick-upon-Tweed, and thereof be convicted or attainted, or upon his or their Arraignment shall stand Mute, or will not directly answer to the indictment, or shall challenge peremptorily above the number of twenty persons returned to be of the Jury, he or they shall be totally excluded from having the Benefit of his or their Clergy, if it appear upon evidence or examination before the Justices, that the said goods or chattel were taken by Robbery or Burglary, or in any other manner, in any other County, whereof if such person or persons had been convicted by a Jury of the said other County, he or they are excluded, by virtue of this or any

Offenders allowed Clergy shall answer to and have judgment and execution upon other Felonies. Dyer, 214. pl. 48.

§ 3.
Offenders allowed their Clergy shall not be delivered, but after being burnt shall be discharged, or may be imprisoned not exceeding one year. 2 Bulstr. 137.

§ 4.
Persons indicted of a crime for which, on conviction, they would not have their Clergy, if they stand mute, &c. shall not have their Clergy.

§ 5.
Persons convicted in one County of stealing goods by Robbery or Burglary in another County, ousted of Clergy if either of those facts are proved on the trial. 2 Hawk. P. C. 33.

other act, from having the Benefit of his or their Clergy. s. 3.
(And see ante, § 1.)

§ 6.

Women convict
of felony shall
hereafter be
punished in like
manner as men.

Where a Man being convicted of any felony for which he may demand the Benefit of his Clergy, if a Woman be convicted for the same or like offence, upon her prayer to have the Benefit of this Statute, judgment of Death shall not be given against her upon such conviction, or execution awarded upon any Outlawry for such offence, but shall suffer the same punishment as a man should suffer that has the Benefit of his Clergy allowed him in the like case; that is to say, shall be burnt in the hand by the Gaoler in open Court, and further be kept in prison for such time as the Justices shall think fit, so as the same do not exceed one year's imprisonment. 3 W. & M. c. 9. s. 6.

Clerk of Assize,
&c. shall certify
the tenor of
such convictions
to Justices in
other Counties.

The Clerk of the Crown, Clerk of the Peace, Clerk of the Assizes, where such man or woman shall be convicted, shall, at the request of the prosecutor, or any other in their Majesties behalf, certify a transcript, briefly and in few words, containing the Effect and Tenor of every Indictment and Conviction of such man or woman, of his having the Benefit of the Clergy, or her having the Benefit of this Statute, and Addition of every such person, and the certainty of the felony and conviction to the Judges and Justices in such other County where such man or woman shall be indicted, which Certificate being produced in Court, shall be a sufficient proof that such Man hath before had the Benefit of his Clergy, and that such Woman hath had the Benefit of this Statute. s. 7.

This Act is continued by 4, 5 W. & M. c. 24. s. 13., and made perpetual by 6, 7 W. 3. c. 14. s. 1.

Offenders pray-
ing their Clergy
shall be allowed
it without being
required to read.

Forasmuch as when any person is convicted for any felony within the Benefit of Clergy, upon his prayer to have the Benefit thereof allowed to him, it hath been used to administer a book to him, to try whether he can read as a Clerk, which, by experience, is found to be of no use; be it therefore enacted, that from and after the 14th February 1706, if any person be convicted of any such felony for which he ought to have had the Benefit of his Clergy if this Act had not been made, and shall pray to have the benefit of this Act, he shall not be required to Read, but without any reading shall be allowed, taken, and reputed to be, and punished as a Clerk convict, which shall be as effectual to all intents and purposes, and be as advantageous to him, as if he had read as a Clerk; any thing in this Act, or any other Law or Statute to the contrary notwithstanding. 5 Ann. c. 6. s. 4.

Clerk of the Peace (APPOINTMENT OF).

Every Custos Rotulorum for the time being shall, in every Shire of this Realm, Wales, and other the King's Dominions, Marches and Territories of the same, nominate, elect, appoint, and assign all and every person and persons which hereafter shall be Clerks of the Peace within any such Shires of England, Wales, and other the King's Dominions, Marches and Territories of the same, and to give and grant the said Office of Clerkship of the Peace to such able person instructed in the Laws of this Realm as shall be able to exercise and occupy the same, to hold and enjoy the same during the time that the said Custos Rotulorum shall occupy and exercise his said office, so that the said Clerk demean him in the said office justly and honestly; and that every such grantee of such Clerkship shall occupy and enjoy the same office by himself or by his sufficient deputy, instructed in the Laws, so that the same deputy be admitted, taken, and reputed by the Custos Rotulorum to be able to exercise and occupy the same office. 37 Hen. 8. c. 1. s. 3.

The Custos Rotulorum of the County shall appoint the Clerk of the Peace.

Exception in favour of certain persons who by Letters Patent may appoint to the office in Counties Palatine or other places. s. 5.

Coal Works, Collieries, and Colliers.

- I. *Maliciously setting on fire any Mine, Pit, or Delph of Coal, or Cannel Coal.*
- II. *Maliciously Drowning any Coal Work, Mine, Pit, or Delph of Coal, or making any subterranean Cavities, &c. with design to destroy or damage any such Coal Work, &c. or obstructing any Sough of Water used for draining any such Coal Works, &c.*
- III. *Riotously demolishing or pulling down, &c. or beginning to demolish, &c. any Engine, Bridge, Waggon-way, &c. used in Collieries, &c. or any Building used in the management of the same.*
- IV. *Seducing Colliers to quit the Kingdom.*



I. *Maliciously setting on fire any Mine, Pit, or Delph of Coal or Cannel Coal.*

Offenders setting fire to any Mine, &c. or Cannel Coal, shall be guilty of Felony without Clergy.

From and after the 24th June 1737, and during the continuance of the before-mentioned act of 9 G. 1. (c. 22.) if any person or persons shall wilfully and maliciously set on fire or cause to be set on fire any Mine, Pit, or Delph of Coal or Cannel Coal, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in cases of felony, without Benefit of Clergy. 10 G. 2. c. 32. s. 6. made perpetual by 31 G. 2. c. 42. s. 5.

Provisions and powers of 9 G. 1. c. 22. extended to cases of offences committed by setting fire to any mine, pit, or delph of Coal or Cannel Coal.

All the provisions made in the act 9 G. 1. c. 22. for the more speedy and easy bringing the offenders against the said act to justice, and the persons who shall conceal, aid, abet, or succour such offenders, and for making satisfaction and amends to all and every the person and persons, their executors and administrators, for the damages they shall have sustained or suffered by any offender or offenders against the said act, and for the encouragement of persons to apprehend and secure such offender and offenders, and for the better and more impartial trial of any indictment or information which shall be found, commenced, or prosecuted for any of the offences committed against the said act, together with all restrictions, limitations, and mitigations by the said act directed, shall, during the continuance of the said act, extend to and be of force and effect in all cases of offences committed by wilfully and maliciously setting on fire or causing to be set on fire any Mine, Pit, or Delph of Coal or Cannel Coal. 10 G. 2. c. 32. s. 4. made perpetual by 31 G. 2. c. 42. s. 5.

II. *Maliciously drowning any Coal Work, Mine, Pit, or Delph of Coal, or making any subterranean Cavities, &c. with Design to destroy or damage any such Coal Work, &c., or obstructing any Sough of Water used for draining any such Coal Work, &c.*

The Statute 13 G. 2. c. 21. intituled "An act for *further* and more effectually preventing the wilful and malicious destruction of Collieries and Coal Works," reciting that "divers evil-disposed persons possessed of or interested in Collieries, have by secret and subtile devices wilfully and maliciously attempted to drown adjacent Collieries, and have by means of water conveyed or obstructed for that purpose, destroyed or damaged the same, intending thereby to enhance the price of Coals and

gain the Monopoly thereof," and then reciting the Act 10 G. 2. c. 32. whereby the wilfully and maliciously setting on *fire* any such Mine, &c. is made a capital Felony; and that "it is reasonable that an adequate punishment should likewise be inflicted on persons who shall wilfully and maliciously destroy or damage Collieries by means of *water* as is aforesaid;" enacts, that if any person, from and after 12 June 1740, shall unlawfully, wilfully, and maliciously divert, or cause to be diverted, Water from any River, Brook, Watercourse, Channel, or Land Flood, or convey, or cause to be conveyed, Water into any Coal Work, Mine, Pit, or Delph of Coal, or into any subterraneous Cavities or Passages, or make or cause to be made any subterraneous Cavities or Passages, with design thereby to destroy or damage any Coal Work or Mine, Pit, or Delph of Coal, belonging to any other person or persons, or shall for that purpose, unlawfully, wilfully, and maliciously destroy or obstruct any sough or sewer (which has been a sough or sewer in common for fifty years), made for draining any Coal Work, Mine, Pit, or Delph of Coal, or shall attempt or continue any such mischievous practice, or shall aid or assist therein in manner aforesaid, every such person shall, for every such offence, forfeit and pay to the party or parties aggrieved treble damages and full costs of suit, to be sued for and recovered by Action of Debt, Bill, Complaint, or Information in any of his Majesty's Courts of Record at Westminster.

Persons drowning Coal Pits, or making cavities with intent to damage Coal Works;

or obstructing any ancient sough of water, or aiding therein, shall pay treble damages and full costs.

Nothing in this act contained shall prevent or restrain, or be construed to prevent or restrain any person or persons, being the owner or owners of any sough, drain, or sewer, from destroying, obstructing or diverting, using or disposing of any such sough, drain, or sewer, in such manner as he, she, or they respectively may now lawfully do. s. 2.

Exception in favour of owners of soughs.

III. *Riotously demolishing or pulling down, &c. any Engine, Bridge, Waggon-way, &c. used in Collieries, &c., or any Building used in the management of the same.*

The Statute 56 G. 3. c. 125. recites the Statutes 1 G. 1. st. 2. c. 5. 9 G. 3. c. 29., and 52 G. 3. c. 130.; and that "it is expedient and necessary that more effectual provision should be made for the protection of property not within the provisions of the said acts;" and then enacts, that if, after the passing of this act, any person or persons unlawfully, riotously, and tumultu-

Persons riotously assembled, demolishing, pull-

ing down, &c. or beginning to demolish, &c. any fire or other engine, or any bridge, waggon-way, &c. used in Collieries or Mines, or any building, &c. for depositing Coals, shall be guilty of felony without Benefit of Clergy.

ously assembled together in disturbance of the public peace, shall unlawfully and with force demolish, pull down, destroy, or damage, or begin to demolish, pull down, destroy, or damage, any Fire Engine or other Engine erected or to be erected for making, sinking, or working Collieries, Coal Mines, or other Mines, or any Bridge, Waggon-way, or Trunk, erected or made, or to be erected or made for conveying Coals or other Minerals from any Colliery, Coal Mine, or other Mine, to any place, or for shipping the same, or any Staith or other Erection or Building for depositing Coals or other Minerals, or used in the management or conducting of the business of any such Colliery, Coal Mine, or other Mine, whether the same Engines, Bridges, Waggonways, Trunks, Staiths, Erections, and other Buildings or Works, shall be respectively completed and finished, or only begun to be set up, made, and erected, that then every such demolishing, pulling down, destroying, and damaging, or beginning to demolish, pull down, destroy, and damage, shall be adjudged Felony, without Benefit of Clergy, and the offenders therein shall be adjudged Felons, and shall suffer Death as in case of Felony, without Benefit of Clergy.

By s. 2. persons injured or damnified may recover the value of the property destroyed, as under 1 G. 1. st. 2. c. 5.; and by s. 3, such persons shall give information to magistrates of such Assembly having taken place, and also notice within two days after to some of the inhabitants of the place, and also be examined on oath before some Justice of the Peace, within four days, as to their knowledge of the offenders.

IV. Seducing Colliers to quit the Kingdom.

Punishment of seducing Colliers to quit the Kingdom.

The Statute 39 G. 3. c. 56., reciting that "there have of late been many attempts to seduce Colliers out of Scotland into foreign countries," enacts, (s. 8.) that all persons Seducing or attempting to seduce Colliers or others aforesaid (1) from the Kingdom of Great Britain, shall be punished in the same manner as persons seducing or attempting to seduce Manufacturers or other Artizans are punishable by law.

(1) The act mentions *Colliers, Coal Bearers, and Coal Hewers.*

Coin.

- I. i. *Provisions for a New Silver Coinage, and Regulations respecting the Currency of the Gold and Silver Coin of the Realm, by 56 G. 8. c. 68.*
- ii. *Counterfeiting the Gold and Silver Coin of the Realm.*
- iii. *Counterfeiting the Copper Coin of the Realm.*
- iv. *Counterfeiting Foreign Coin.*
- II. *Having in possession, making, mending, buying, altering, or concealing any Instrument applicable to counterfeiting the Coin.*
- III. i. *The Offence of clipping, washing, rounding, filing, impairing, lightening, diminishing, falsifying, or melting the Coin of the Realm, or Foreign Coin current by Proclamation.*
- ii. *Regulations for preventing any Gold Coin, current in the United Kingdom, being received, paid, or accepted for any more or less than the true lawful Value which such Coin, by its Denomination, does or shall import ; (and see Division I. i. post, p. 117.)*
- iii. *Exchanging, lending, selling, buying, receiving, or paying Current Silver Money, &c. for more than the same was coined for ; (and see Division IV.)*
- iv. *Buying, selling, or knowingly having in Possession the Clippings or Filings of the Current Coin of the Realm.*
- v. *Seizing and destroying diminished Gold and Silver Coin tendered in Payment ; (and see Division I. i. p. 115.)*
- IV. *Receiving, paying, or putting off Counterfeit Money at or for a lower Rate or Value than the Denomination imports, and uttering or tendering in Payment any Counterfeit Money.*
- V. *Importing Counterfeit Coin.*
- VI. i. *Exporting the Coin of the Realm.*
- ii. *Exporting certain Counterfeit Coin to the West Indies or America, or shipping the same with such Intent.*
- VII. *Blanching Copper, or mixing blanched Copper with Silver, or buying or selling, &c. the same, or any malleable Composition to look like Gold.*
- VIII. *Having in Possession, or tendering in Payment, or putting off Counterfeit Foreign Coin.*
- IX. *Trial of Offences relating to the Coin.*

I. i. Provisions for a new Silver Coinage, and Regulations respecting the Currency of the Gold and Silver Coin of the Realm.

18 Car. 2. c. 5.
as to coining
silver brought to
the Mint, with-
out charge,
repealed.

The Statute 56 G. 3. c. 68. "to provide for a new Silver Coinage, and to regulate the Currency of the Gold and Silver Coin of this Realm," recites, that the Silver Coins of the Realm have, by long use and other circumstances, become greatly diminished in number and deteriorated in value, so as not to be sufficient for the payments required in dealings under the value of the Current Gold Coins, by reason whereof a great quantity of Light and Counterfeit Silver Coin and Foreign Coin has been introduced into circulation within this Realm; and the evils resulting therefrom can only be remedied by a new Coinage of Silver Money, to be made and issued under proper regulations for maintaining its Value and preserving the same in Circulation; and then enacts, that from and after the passing of this Act, so much of 18 Car. 2. c. 5., and also so much of every other Act as enacts that whatsoever person, native or foreigner, alien or stranger, should bring any Foreign Coin, Plate or Bullion of Silver, in mass, molten, or alloyed, or any sort of Manufacture of Silver, into his Majesty's Mint or Mints within the Kingdom of England, to be there melted down and coined into the Current Coins of this Kingdom, should have the same there assayed, melted down, and coined with all convenient speed, without any defalcation, &c. for the assaying, &c., so as that for every Pound Troy of Sterling or Standard Silver that should be brought in by him to be assayed, melted down, and coined as aforesaid, there should be delivered out to him a Pound Troy of the Current Coins of this Kingdom, of Sterling or Standard Silver, and so proportionably; shall be and the same is and are hereby repealed. s. 1.

So much of 7 & 8 W. 3. c. 1. as to weight and fineness of Silver Coin, under Mint Indenture, and so much of 14 G. 3. c. 42. as enacts that any Silver less in weight than 62 Shillings to the Pound Troy of Silver, shall be forfeited, repealed. s. 2. The Statute 38 G. 3. c. 59. prohibiting Silver Coinage, repealed. s. 3.

The pound troy
of standard
silver, eleven
ounces two
pennyweights
fine, &c. may
be coined into
66 shillings.

From and after the passing of this Act, it shall and may be lawful for his Majesty's Master and Worker of the Mint, at his Majesty's Mint in London, to coin or cause to be coined any Silver Bullion, which, at any time before or after the passing of this Act, shall have been or shall be brought to or delivered or deposited at the said Mint, into Silver Coins of a Standard and fineness of eleven ounces two pennyweights of fine Silver,

and eighteen pennyweights of alloy in the Pound Troy, and in weight after the rate of sixty six Shillings to every Pound Troy, whether the same be coined in Crowns, Half Crowns, Shillings or Sixpences, or pieces of a lower denomination; any thing in any Act or Acts of Parliament in force in Great Britain or Ireland respectively, immediately before the passing of this Act, or any thing in any Indenture with his Majesty's Master or Worker of the said Mint for the time being, or any law, usage, or custom whatsoever, to the contrary thereof in anywise notwithstanding. s. 4.

Old Silver Coin of the Realm brought to the Mint, may be exchanged for its full nominal value in new Silver Coin. s. 5. Treasury may appoint persons to receive old Silver Coin, and exchange the same for new, at any places throughout the Kingdom. s. 6.

From and after the expiration of the period to be mentioned in any such Proclamation or Proclamations (1) as aforesaid, it shall and may be lawful for any person or persons whomsoever, and all persons are hereby authorized and required, to cut, break, or deface, or cause to be cut, broken, or defaced, any piece or pieces of old Silver Coin of this Realm, current at any time before the passing of this Act, which shall be tendered to them or any of them in payment, and which shall be of less value than the denomination thereof shall import, and the person tendering the same shall bear the loss; but if any such piece so cut, broken, or defaced, shall appear to be of the full value which its denomination shall import, the person who shall cut, break, or deface the same, shall and he is hereby required to take and receive the same at the rate it was coined for; and if any question or dispute shall arise whether the piece so cut be of less value than its denomination shall import, such question or dispute shall be heard and finally determined by the Mayor, Bailiff or Bailiffs, or other Chief Officer of any City or Town Corporate where such tender shall be made; and if such tender shall be made out of any City or Town Corporate, then by some Justice of the Peace of the County inhabiting or being near the place where such tender shall be made; and the said Mayor or other Chief Officer and Justice of the Peace respectively, shall have full power and authority to summon any person or persons to appear and give evidence before him or them, and to administer an oath, as he shall see convenient, to any person, for determining any questions

After the end of the period appointed for receiving Old Coin of the Realm at the Mint, all Old Coin deficient in value may be cut by the person to whom it shall be tendered.

(1) As is and are mentioned in the fifth and sixth sections, to regulate the time of bringing in and exchanging the old silver coinage.

relating to the value and lawful Currency of any such piece of Coin. s. 7.

Provision (not exceeding £500,000) shall be made for the loss arising from the deficiency and re-coinage of the Silver Coin. s. 8. After a day to be appointed by Proclamation, Silver Coin and Bullion may be brought to the Mint, to be coined at the rate of sixty six Shillings per Pound Troy of Standard Silver, eleven ounces two pennyweights fine, &c.; of which sixty two Shillings per Pound shall be delivered to the party bringing in the Bullion, and four Shillings retained for assaying, loss, and coinage. s. 9. Such sums of four Shillings per Pound shall be applied to the expence of coinage, and the surplus (if any) carried to the Consolidated Fund. s. 10.

Gold Coin declared the only legal tender;

being the weight and fineness of the Mint indenture.

And whereas at various times heretofore the Coins of this Realm of Gold and Silver have been equally a legal Tender for payments to any amount, and great inconvenience has arisen from both those precious metals being concurrently the Standard measure of value and equivalent, for property; and it is expedient that the Gold Coin made according to the indentures of the Mint, should henceforth be the sole Standard measure of value and legal Tender for payment, without any limitation of amount, and that the Silver Coin should be a legal Tender to a limited amount only, for the facility of exchange and Commerce; be it therefore enacted, that from and after the passing of this act, the Gold Coin of this Realm shall be and shall be considered, and is hereby declared to be, the only legal Tender for payments (except as herein-after provided) within the United Kingdom of Great Britain and Ireland; and that the said Gold Coin shall hold such weight and fineness as are prescribed by the present indenture with his Majesty's Master and Worker of the Mint for making Gold Monies at his Majesty's Mint in London, and with such allowance, called the Remedy, as is given to the said Master by the said indenture; which weight and fineness are hereby declared to be and shall remain to be the Standard of and for the lawful Gold Coin of the Realm, so far as relates to Gold Coins of the denominations at present in use, and specified in the said indenture; and in case any Gold Coin or Coins of any other denomination shall hereafter be coined at the said Mint under any future indenture, such Gold Coin and Coins shall hold the like standard in fineness as the Gold Coins of the present denominations, and shall hold such weight as shall be proportionate to the weight of the present Gold Coins, according to the value for which such Gold Coin or

Coins of any new denomination shall be declared to be current. s. 11.

And whereas it is expedient that the Silver Coin of the Realm should be a legal Tender by tale, according to its denomination, to any amount not exceeding the sum of forty Shillings; be it therefore enacted, that from and after such day as shall be for that purpose named in any proclamation, which at any time after the passing of this act shall be made and issued, by or on behalf of his Majesty, with the advice of his Majesty's Privy Council, so much and such parts of the act made in the fourteenth year of his present Majesty's Reign (14 G. 3. c. 42. s. 2.) as enacts or provides, or may be construed to enact or provide, that any Tender in Silver Coin of the Realm shall be legal to the amount of twenty five pounds, or a tender for any greater sum according to its value by weight, and also so much of any act and acts whereby the said last recited act is continued, revived, or made perpetual, shall be and the same is and are hereby Repealed accordingly: and that from and after such day as shall be for that purpose named in any such Proclamation to be made and issued as aforesaid, no Tender or Payment of Money made in the Silver Coin of this Realm, of any sum exceeding the sum of forty shillings at any one time, shall be reputed a Tender in Law, or allowed to be a Legal Tender within the United Kingdom of Great Britain and Ireland, either by tale or weight of such Silver Coin or otherwise howsoever; any thing in the said recited act of the fourteenth year of his present Majesty's Reign, or in any other act or acts in force immediately before the passing of this act, or any usage or custom to the contrary, in anywise notwithstanding. s. 12.

So much of
14 G. 3. c. 42.
as makes silver
a tender to £25,
and afterwards
by weight, re-
pealed after a
day to be named
in the King's
Proclamation
for that purpose.

No tender of
Silver Coin legal
beyond 40s.

From and after the passing of this act, no person shall by any means, device, shift, or contrivance whatsoever, receive or pay for any Gold Coin lawfully current within the United Kingdom of Great Britain and Ireland, any more or less in value, benefit, profit, or advantage, than the true lawful value which such Gold Coin doth or shall by its denomination import; nor shall utter or receive any piece or pieces of Gold Coin of this Realm at any greater or higher rate or value, nor at any less or lower rate or value than the same shall be current for in payment, according to the rates and values declared and set upon them pursuant to Law; and that every person who shall offend herein shall be deemed and adjudged guilty of a Misdemeanor, and being thereof convicted by due course of Law, shall suffer imprisonment for the term of six calendar months, and shall find

Current Gold
Coin shall not be
received or paid
for more or less
than its value,
according to its
denomination.

sureties for his or her good behaviour for one year more, to be computed from the end of the said six months: and if the same person shall afterwards be convicted of the like offence, such person shall for such second offence suffer one year's imprisonment, and find sureties for his or her good behaviour for one year more, to be computed from the end of the said last mentioned year; and if the same person shall afterwards offend against this act, and shall by due course of law be convicted of any subsequent offence, he or she shall be imprisoned for the term of two years for every such subsequent offence. s. 13.

When Persons who have been convicted shall be again guilty, the Clerk of the Peace shall certify former conviction.

If any person who shall be convicted of receiving or paying any such Gold Coin contrary to this act, shall afterwards be guilty of the like offence, the Clerk of the Assize or Clerk of the Peace for the county, city, or place where such conviction was so had, shall, at the request of the prosecutor or any other person on his Majesty's behalf, Certify such conviction, for which certificate two shillings and sixpence, and no more, shall be paid; and such Certificate being produced in court, shall be sufficient proof of such former conviction. s. 14.

Indictments not to be traversed.

No person against whom any bill of indictment shall be found at any Assizes or Sessions of the Peace for any offence against this act, shall be entitled to Traverse the same to any subsequent Assizes or Sessions; but the Court at which such bill of Indictment shall be found, shall forthwith proceed to try the person or persons against whom the same shall be found, unless he, she, or they shall shew good cause, to be allowed by the Court, why his, her, or their trial should be postponed. s. 15.

On prosecution, it shall not be necessary to prove the Money lawful.

Provided always, that on any prosecution or trial of any Offender or offenders hereafter to be prosecuted or tried for any offence against this act, it shall not be necessary to prove that the Gold Coin received or paid or uttered contrary to this act, is the Current Gold Coin of this Realm, but the same shall be deemed and taken so to be, if received or paid or uttered as such, until the contrary thereof shall be proved to the Satisfaction of the Judge, Justice, or Court, before whom any such offender or offenders shall be prosecuted or tried. s. 16.

All other acts relating to Silver Coin extended to this act.

All and every act and acts in force immediately before the passing of this act, respecting the Coin of this Realm, or the clipping, diminishing, or counterfeiting of the same, or respecting any other matters relating thereto, and all provisions, proceedings, penalties, forfeitures, and punishments therein contained or directed, not expressly repealed by this act, and not repugnant or contradictory to the enactments and provisions of this act,

shall be and continue in full force and effect; and shall be applied and put in execution with respect to the Silver Coin to be coined in pursuance of the directions of this act, as fully and effectually to all intents and purposes whatsoever, as if the same were repeated and re-enacted in this act. s. 17.

Provided always, that nothing in this act contained shall extend, or be construed to extend, to affect, alter, or repeal any clause, matter, or thing in any act or acts made or to be made in this present session of Parliament, whereby it is or may be enacted or provided that the Promissory Notes of the Governor and Company of the Bank of England, expressed to be payable to bearer on demand (called Bank Notes) shall be received for any period in any such act mentioned, in payment of all sums of money which are or shall become payable for any part of the Public Revenue, and shall be accepted by the Collectors, Receivers, and other Officers of the Revenue authorized to receive the same, if offered to be so paid, fractional parts of twenty shillings only excepted; any thing in this act before contained to the contrary thereof in anywise notwithstanding. s. 18.

Act not to affect payments in Bank of England notes.

Provided also, that nothing in this act contained shall extend, or be construed to extend, to alter or repeal any clause, matter, or thing in any act or acts in force in Ireland, whereby it is enacted or provided that all sums of money payable in Ireland, for any part of the Public Revenue there, shall be accepted by the Collectors, Receivers, and other Officers of the Revenue in Ireland authorized to receive the same, in Silver Bank Tokens of the Bank of Ireland, for thirty pence, ten pence, or five pence respectively, which shall be issued during the continuance of the restriction on payments in cash by the Governor and Company of the Bank of Ireland, if offered to be so paid; any thing in this act before contained to the contrary thereof in anywise notwithstanding. s. 19.

This act not to affect payments of Revenue in Ireland in Irish Bank Tokens.

I. ii. *Counterfeiting the Gold and Silver Coin of the Realm.*

The statute 25 Ed. 3. st. 5. c. 2. (1) declares, that it shall be High Treason if a man Counterfeit the King's Money.

§ 1.
Counterfeiting the King's Money, High Treason.

If any person or persons (other than the persons employed in his Majesty's Mint or Mints, or such as shall have authority from the Lords Commissioners of the Treasury, or Lord High Treasurer of England for the time being) shall mark on the

§ 2.
Persons (other than those duly authorized) marking the edges of Coin,

(1) See this act at length under title TREASON.

declared guilty of
High Treason.

edges any the current Coin of this Kingdom, or if any person or persons whatsoever shall mark on the edges any of the diminished Coin of this Kingdom, or any counterfeit Coin resembling the Coin of this Kingdom, with letters or grainings, or other marks or figures like unto those on the edges of Money coined in his Majesty's Mint; every such offence shall be and is hereby adjudged to be High Treason, and the offender and offenders therein, his and their Counsellors, Procurers, Aiders, and Abettors, being thereof convicted or attainted according to the order and course of the Laws of this Realm, shall suffer Death as in cases of High Treason. 8 & 9 W. 3. c. 26. s. 3.

Persons colour-
ing, gilding, &c.
or washing any
counterfeit Coin;

If any person or persons whatsoever shall colour, gild, or case over with Gold or Silver, or with any Wash or Materials producing the colour of gold or silver, any Coin resembling any the current Coin of this Realm, or any round blanks of base metal, or of coarse gold or coarse silver, of a fit size and figure to be coined into counterfeit milled Money, resembling any the Gold or Silver Coin of this Kingdom; or if any person or persons shall gild over any silver blanks of a fit size and figure to be coined into pieces resembling the current Gold Coin of this Kingdom; all and every such person and persons so offending, their Counsellors, Procurers, Aiders, and Abettors, shall be and is and are hereby adjudged to be guilty of High Treason, and being convicted or attainted thereof according to the order and course of the Laws of this Realm, shall suffer Death as in case of High Treason. s. 4.

or colouring any
blanks, &c. guilty
of High Treason.

Attainder for Treason or Felony under this act shall not work corruption of blood or loss of dower, and offenders shall be indicted, arraigned, tried, convicted or attainted, as other offenders may be for counterfeiting the King's Money. s. 7.

Prosecutions shall be commenced within three months after the offence committed. s. 9. Extended to six months by 1 Ann: st. 1. c. 9. s. 2.

The above statute 8 & 9 W. 3. c. 26. is made perpetual by 7 Ann. c. 25. s. 1.

§ 3.

To wash or gild
any Silver Coin
with intent to
make it look like
Gold Coin;

The statute 15 & 16 G. 2. c. 28. s. 1. enacts, that if any person whatsoever shall, after the 29th September 1742, wash, gild, or colour any of the lawful Silver Coin, called a Shilling or a Sixpence, or any counterfeit or false shilling or sixpence, or add to or alter the impression or any part of the impression of either side of such lawful or counterfeit shilling or sixpence, with intent to make such shilling resemble or look like or pass for a piece of lawful Gold Coin called a Guinea, or with intent to make such sixpence resemble or look like or pass for a piece

of lawful Gold Coin called an Half Guinea; or shall file or any-
 wise alter, wash, or colour any of the Brass Monies called Half-
 pennies or Farthings, or add to or alter the impression or any
 part of the impression of either side of an halfpenny or farthing
 with intent to make an halfpenny resemble or look like or pass
 for a lawful shilling, or with intent to make a farthing resemble
 or look like or pass for a lawful sixpence, the person or per-
 sons so offending in any of the matters aforesaid, their Coun-
 sellors, Aiders, Abettors, and Procurers, shall and is and are
 hereby adjudged to be guilty of High Treason.

and to wash or
 colour brass
 monies with a
 like intent ;

shall be High
 Treason.

By the statute 11 G. 3. c. 40. s. 3. any Justice of Peace, on the
 oath of one witness that there is just cause to suspect that one or
 more persons have been concerned in such coining, by warrant
 under his hand, may cause their dwelling houses, outhouses, &c.,
 or other places belonging to them, to be searched for tools and
 implements for such coining, and if they shall be found concealed
 there, or in custody or possession of any person not employed
 in the Mint, or having the same by some lawful authority, to
 seize such tools, and carry them before a Justice of Peace of the
 place where seized, who shall cause the same to be secured
 and produced in evidence on the trial of the offenders, and after-
 wards shall be destroyed by order of the Court, or of such or
 some other Justice of Peace in case there be no trial.

The person or persons convicted of any of the Treasons and
 Felonies respectively hereinbefore mentioned shall suffer Death
 as in case of High Treason and Felony respectively, but the
 blood of the heirs of such offender shall not be thereby cor-
 rupted, nor shall his wife thereby forfeit or lose her dower out of
 or in his lands or real estate. 15 & 16 G. 2. c. 28. s. 4.

Not to work
 corruption of
 Blood or loss of
 Dower.

The person and persons that shall be guilty of any of the
 Treasons, Felonies, or Crimes, aforesaid, shall be indicted,
 arraigned, tried, and convicted by such like evidence and in
 such manner as is now used and allowed against any offenders
 for counterfeiting the lawful Coin; provided, that there shall be
 no prosecution for any of the offences made Treason or Felony
 by this act, unless such prosecution be commenced within six
 months next after such offence shall be committed. s. 5.

Trial and evi-
 dence.

Limitation of
 Prosecutions.

Whoever, being out of prison, shall after the said 29th Sep-
 tember 1742, commit any of the offences aforesaid, and shall
 afterwards discover two or more persons who shall after the
 time aforesaid have committed any of the said offences, so as
 such two or more persons shall be thereof convicted, such dis-

Offenders out of
 Prison convicting
 two others, shall
 be pardoned.

coverer shall have and is hereby entitled to his Majesty's most gracious Pardon for such his or her offences. s. 8.

By s. 7. a reward of £40 was given to the apprehender and prosecutor to conviction of persons guilty of High Treason under this act; but this section is repealed by statute 58 G. 3. c. 70. which see under title REWARDS.

I. iii. *Counterfeiting the Copper Coin of the Realm.*

§ 1.
To coin or counterfeit Brass or Copper Money, was a Misdemeanor.

The Statute 15 G. 2. c. 28. "for the more effectually preventing the counterfeiting of the current Coin of this Kingdom," recites (s. 6.) that "the coining or counterfeiting any of the Copper Money of this Kingdom is only a Misdemeanor, and the punishment often very small;" and then enacts, that if any person whatsoever shall, after 24th September 1742, make, coin, or counterfeit any Brass or Copper Money commonly called a Halfpenny or a Farthing, such person offending therein, and his, her, and their aiders, abettors, and procurers, being thereof convicted, shall suffer two years imprisonment, and find sureties for his or her good behaviour for two years more, to be computed from the end of the said first two years.

§ 2.

Thus it is seen that by the abovementioned Statute 15 G. 2. c. 28. s. 6. the counterfeiting of the Copper Coin was made punishable as a misdemeanor by two years imprisonment and finding sureties for two years more; but now, by Statute 11 G. 3. c. 40. reciting that "the coining or counterfeiting any of the Copper Monies of this Realm being punishable only as a Misdemeanor, the practice thereof hath of late years greatly prevailed, and is likely to continue to increase, to the great prejudice of Trade and the wrong and injury of the Subject; for redress of which growing mischief," it is enacted, that if any person or persons shall, from and after 24 June 1771, make, Coin, or Counterfeit any of the Copper Monies of this Realm, commonly called an Halfpenny or a Farthing, such person or persons offending therein, and his, her, or their Counsellors, Aiders, Abettors, and Procurers, shall be adjudged guilty of Felony.

But now persons counterfeiting Copper Halfpence or Farthings, shall be guilty of Felony.

Justices may cause houses, &c. to be searched for coining implements.

By s. 3. it shall and may be lawful to and for any one Justice of the Peace, on complaint made before him upon the oath of one credible person that there is just cause to suspect that any one or more person or persons is or hath been concerned in counterfeiting the Copper Monies of this Realm, by warrant under his hand to cause the dwelling house, room, workshop, outhouse, yard, garden, or other place belonging to such sus-

pected person or persons, to be searched for tools and implements for coining such Copper Monies; and if any such tools or implements shall at any time be found hid or concealed in any place so searched, or be found in the custody or possession of any person or persons whatsoever, not then employed in the coining of Money in some of his Majesty's Mints, nor having the same by some lawful authority, that then it shall and may be lawful to and for any person or persons whatsoever, discovering the same, to seize, and he and they are hereby authorized and required to seize the same, and to carry them forthwith to some Justice of the Peace of the county, city, or place where the same shall be seized, who shall cause the same to be secured and produced in evidence against any person or persons who shall or may be prosecuted for any of the offences aforesaid, in some Court of Justice proper for the determination thereof; and after such time as they or any of them shall have been produced in evidence, as well the same so produced as the other so seized and not made use of in evidence, and every of them, shall forthwith by order of that Court where such offender or offenders shall be tried, or by order of such or some other Justice of the Peace in case there be no such trial, be defaced and destroyed, or otherwise disposed of, as such Court, or such Justice, shall direct.

The Statute 37 G. 3. c. 126. (s. 1.) recites, that "the Commons of Great Britain in Parliament assembled, by their Unanimous Address to his Majesty, have requested that his Majesty would be graciously pleased to give directions that measures should be taken for procuring an immediate supply of such Copper Coinage as might be best adapted to the payment of the laborious poor; and it is necessary that so much of the provisions contained in an Act [15 G. 2. c. 28.] as relates to the Copper Monies of this Realm, commonly called *an halfpenny* and a *farthing*, and also the provisions contained in an Act [11 G. 3. c. 40.], and all other provisions made by Law concerning the Copper Monies of this Realm, commonly called an halfpenny and a farthing, should be extended to such Copper Monies as may be coined and issued in pursuance of such address, and all other Copper Monies of this Realm which may be hereafter coined and issued by his Majesty's authority;" and then enacts, that from and after the passing of this Act, so much of the said Act passed in the 15th year of the reign of his late Majesty King George the Second [15 G. 2. c. 28.] as relates to the Copper Monies of this Realm, commonly called an halfpenny and a farthing, and also the said Act of the 11th year of his Majesty's reign [11 G. 3.

§ 3.

So much of
15 G. 2. c. 28. as
relates to Half
pence and Far-
things, and
11 G. 3. c. 40.
and all other acts
concerning the

Copper Monies of the Realm, extended to such Monies hereafter coined and ordered to be current by Proclamation.

c. 40.], and all and every other Act and Acts of Parliament concerning the Copper Monies of this Realm, commonly called an halfpenny and a farthing, or any other Copper Monies of this Realm, shall extend and be construed, deemed, and taken to extend to all such pieces of Copper Money as shall be coined and issued by order of his Majesty, his Heirs and Successors, and as shall by his or their Royal Proclamation be ordered to be deemed and taken as Current Money of this Realm; and that all and every the provisions in such Acts or any of them contained, shall extend and be construed, deemed, and taken to extend to all such other pieces of Copper Money as aforesaid, in such and the same manner as if such pieces had been particularly mentioned and described in such Acts respectively.

I. iv. *Counterfeiting Foreign Coin.*

§ 1.
It shall be Treason to forge Foreign Coin current in this Realm.

Forasmuch as by Law small and no due and condign punishment is provided for such evil-disposed persons as shall counterfeit or forge such kind of Gold or Silver of other Realms as is not the proper Coin of this Realm, and yet permitted to be current in payment within this Realm; for remedy whereof be it enacted, that if any person or persons hereafter falsly forge and counterfeit any such kind of Coin of Gold or Silver as is not the proper Coin of this Realm, and is or shall be current within this Realm by the consent of the Queen, her Heirs or Successors; that then every such offence shall be deemed and judged High Treason, and the offenders therein, their counsellors, procurers, aiders, and abettors, being thereof convict according to Law, shall be likewise deemed and adjudged Traitors against the Queen, her Heirs and Successors, and the Realm, and shall suffer and have such pains of Death, forfeiture of lands, goods, and chattels, as in the case of High Treason is used and ordained. 1 Mar. st. 2. c. 6.

§ 2.
It shall be misprision of Treason to forge Foreign Gold or Silver Coin not current here.

3 Inst. 17.
1 Hale, P. C. 376.

Reciting, that small or no condign punishment is provided for such persons as counterfeit Foreign Gold or Silver Coin of other Realms, not current in this Realm, it is enacted, that if any person hereafter falsly forge or counterfeit any such kind of Coin of Gold or Silver as is not the proper Coin of this Realm, nor permitted to be current within the Realm, that then such offence shall be deemed and adjudged Misprision of High Treason, and the offenders therein, their Procurers, Aiders, and Abettors, being convict according to Law, shall be imprisoned, and forfeit such lands, goods, and chattels as in cases of Misprision of Treason for Concealment of High Treason. 14 Eliz. c. 3.

The Statute 37 G. 3. c. 126. (s. 2.) reciting, that "the practice of counterfeiting Foreign Gold and Silver Coin, and the bringing into this Realm and uttering within the same false and counterfeit Foreign Gold and Silver Coin, and particularly pieces of Gold Coin commonly called *Louis D'or*, and pieces of Silver Coin commonly called *Dollars*, hath of late greatly increased, and it is expedient that provision should be made more effectually to prevent the same," enacts, that if any person or persons shall, from and after the passing of this Act, make, Coin, or Counterfeit any kind of Coin not the proper Coin of this Realm, nor permitted to be current within the same, but resembling or made with intent to resemble or look like any Gold or Silver Coin of any foreign Prince, State, or Country, or to pass as such Foreign Coin, such person or persons offending therein shall be deemed and adjudged to be guilty of Felony, and may be transported for any term of years not exceeding seven years.

§ 3.
Persons counterfeiting Foreign Gold or Silver Coin not current in this Realm, shall be guilty of Felony.

By Statute 43 G. 3. c. 139. (s. 3.) it is enacted, that if any person from and after the passing of this Act shall, within any part of the United Kingdom of Great Britain and Ireland, make, Coin, or Counterfeit any kind of Coin not the proper Coin of this Realm, nor ordered by the Royal Proclamation of his Majesty, his Heirs or Successors, to be deemed and taken as current Money of this Realm, or any part thereof, but resembling or made with intent to resemble any Copper Coin or any other Coin made of any metal or mixed metals of less value than the Silver Coin of such foreign Prince, State, or Country respectively, or to pass as such Foreign Coin, then every person so offending shall be deemed and taken to be guilty of a misdemeanor and breach of the peace, and being thereof convicted according to Law, shall for the first offence be imprisoned for any time not exceeding One Year; and for the second offence be Transported to any of his Majesty's colonies or plantations for the term of seven years.

§ 4.
Persons counterfeiting any Foreign Copper or mixed Metal Coin, shall be guilty of a Misdemeanor.

Second offence, transportation.

No person against whom any Bill of Indictment shall be found at any Assises or Sessions of the Peace, for any offence against this act, shall be entitled to traverse the same to any subsequent Assises or Sessions; but the Court, at which such Bill of Indictment shall be found, shall forthwith proceed to try the person or persons against whom the same shall be found, unless he or they shall shew good cause, to be allowed by the Court, why his, her, or their Trial should be postponed. s. 4.

Offenders shall not be allowed to traverse.

If any person shall be convicted of any offence against this act, and shall afterwards be guilty of the like offence in any other

On trial for a second offence, the certificate of

Copper Monies of the Realm, extended to such Monies hereafter coined and ordered to be current by Proclamation.

c. 40.], and all and every other Act and Acts of Parliament concerning the Copper Monies of this Realm, commonly called an halfpenny and a farthing, or any other Copper Monies of this Realm, shall extend and be construed, deemed, and taken to extend to all such pieces of Copper Money as shall be coined and issued by order of his Majesty, his Heirs and Successors, and as shall by his or their Royal Proclamation be ordered to be deemed and taken as Current Money of this Realm; and that all and every the provisions in such Acts or any of them contained, shall extend and be construed, deemed, and taken to extend to all such other pieces of Copper Money as aforesaid, in such and the same manner as if such pieces had been particularly mentioned and described in such Acts respectively.

I. iv. *Counterfeiting Foreign Coin.*

§ 1.

It shall be Treason to forge Foreign Coin current in this Realm.

Forasmuch as by Law small and no due and condign punishment is provided for such evil-disposed persons as shall counterfeit or forge such kind of Gold or Silver of other Realms as is not the proper Coin of this Realm, and yet permitted to be currant in payment within this Realm; for remedy whereof be it enacted, that if any person or persons hereafter falsly forge and counterfeit any such kind of Coin of Gold or Silver as is not the proper Coin of this Realm, and is or shall be currant within this Realm by the consent of the Queen, her Heirs or Successors; that then every such offence shall be deemed and judged High Treason, and the offenders therein, their counsellors, procurers, aiders, and abettors, being thereof convict according to Law, shall be likewise deemed and adjudged Traitors against the Queen, her Heirs and Successors, and the Realm, and shall suffer and have such pains of Death, forfeiture of lands, goods, and chattels, as in the case of High Treason is used and ordained. 1 Mar. st. 2. c. 6.

§ 2.

It shall be misprision of Treason to forge Foreign Gold or Silver Coin not current here.

Reciting, that small or no condign punishment is provided for such persons as counterfeit Foreign Gold or Silver Coin of other Realms, not current in this Realm, it is enacted, that if any person hereafter falsly forge or counterfeit any such kind of Coin of Gold or Silver as is not the proper Coin of this Realm, nor permitted to be current within the Realm, that then such offence shall be deemed and adjudged Misprision of High Treason, and the offenders therein, their Procurers, Aiders, and Abettors, being convict according to Law, shall be imprisoned, and forfeit such lands, goods, and chattels as in cases of Misprision of Treason for Concealment of High Treason. 14 Eliz. c. 3.

3 Inst. 17.
1 Hale, P. C.
376.

The Statute 37 G. 3. c. 126. (s. 2.) reciting, that “the practice of counterfeiting Foreign Gold and Silver Coin, and the bringing into this Realm and uttering within the same false and counterfeit Foreign Gold and Silver Coin, and particularly pieces of Gold Coin commonly called *Louis D’or*, and pieces of Silver Coin commonly called *Dollars*, hath of late greatly increased, and it is expedient that provision should be made more effectually to prevent the same,” enacts, that if any person or persons shall, from and after the passing of this Act, make, Coin, or Counterfeit any kind of Coin not the proper Coin of this Realm, nor permitted to be current within the same, but resembling or made with intent to resemble or look like any Gold or Silver Coin of any foreign Prince, State, or Country, or to pass as such Foreign Coin, such person or persons offending therein shall be deemed and adjudged to be guilty of Felony, and may be transported for any term of years not exceeding seven years.

§ 3.
Persons counterfeiting Foreign Gold or Silver Coin not current in this Realm, shall be guilty of Felony.

By Statute 43 G. 3. c. 139. (s. 3.) it is enacted, that if any person from and after the passing of this Act shall, within any part of the United Kingdom of Great Britain and Ireland, make, Coin, or Counterfeit any kind of Coin not the proper Coin of this Realm, nor ordered by the Royal Proclamation of his Majesty, his Heirs or Successors, to be deemed and taken as current Money of this Realm, or any part thereof, but resembling or made with intent to resemble any Copper Coin or any other Coin made of any metal or mixed metals of less value than the Silver Coin of such foreign Prince, State, or Country respectively, or to pass as such Foreign Coin, then every person so offending shall be deemed and taken to be guilty of a misdemeanor and breach of the peace, and being thereof convicted according to Law, shall for the first offence be imprisoned for any time not exceeding One Year; and for the second offence be Transported to any of his Majesty’s colonies or plantations for the term of seven years.

§ 4.
Persons counterfeiting any Foreign Copper or mixed Metal Coin, shall be guilty of a Misdemeanor.

Second offence, transportation.

No person against whom any Bill of Indictment shall be found at any Assises or Sessions of the Peace, for any offence against this act, shall be entitled to traverse the same to any subsequent Assises or Sessions; but the Court, at which such Bill of Indictment shall be found, shall forthwith proceed to try the person or persons against whom the same shall be found, unless he or they shall shew good cause, to be allowed by the Court, why his, her, or their Trial should be postponed. s. 4.

Offenders shall not be allowed to traverse.

If any person shall be convicted of any offence against this act, and shall afterwards be guilty of the like offence in any other

On trial for a second offence, the certificate of

the Clerk of Assise, &c. shall be evidence of the first conviction.

County, City, Town, or Place, the Clerk of the Assise, Clerk of the Peace, or Town Clerk for the county, city, town, or place where such former conviction shall have been had, shall, at the request of the Prosecutor, or any other on his Majesty's behalf, Certify the same by a Transcript in few words, containing the Effect and Tenor of such Conviction, for which Certificate two shillings and sixpence, and no more, shall be paid; and such Certificate being produced in Court, and the hand writing of such Clerk of Assise, Clerk of the Peace, or Town Clerk thereto being proved, shall be sufficient evidence of such former conviction. s. 5.

By warrant of one Justice of Peace, houses, &c. may be searched for counterfeit Coin, or implements or materials.

It shall and may be lawful to and for any one Justice of the Peace, on complaint made before him upon the oath of one credible person, that there is just cause to suspect that any one or more person or persons is or are, or hath or have been, concerned in making or counterfeiting any such false or counterfeit [Foreign (1)] Coin as aforesaid (2), by warrant under the hand of such Justice, to cause the dwelling house, room, workshop, outhouse, or other building, yard, garden, or other place, belonging to such suspected person or persons, or where any such person or persons shall be suspected to carry on any such making or counterfeiting, to be searched for any such false or counterfeit Coin, or for tools or implements for coining such false or counterfeit Coins, or for materials for making or coining the same; and if any such false or counterfeit Coin, or any such tools or implements, or any such materials for making any such false or counterfeit Coin, shall be found in any place so searched, or if any such tools, implements, or materials shall be found in the custody or possession of any person or persons whomsoever, not having the same by some lawful authority, it shall and may be lawful to and for any person or persons whomsoever discovering the same to seize, and he and they are hereby authorized and required to seize, such false or counterfeit Coin, Tools, Implements, and Materials, and to carry the same forthwith to a Justice of the Peace of the county, city, town, or place where the same shall be seized, who shall cause the same to be secured and produced in evidence against any person or persons who shall or may be prosecuted for any of the offences aforesaid, in some

(1) The statute 37 G. 3. c. 126. omits this word.

(2) "Resembling or made with intent to resemble or look like any Gold or Silver Coin of any foreign prince, state, or country, or to pass as such Foreign Coin." These additional words are contained in the Statute 37 G. 3.

Court of Justice proper for the determination thereof; and after such time as any such false or counterfeit Coin, or any such tools, implements, or materials, shall have been produced in evidence as aforesaid, as well so much and such parts thereof as shall have been so produced, as every other part thereof so seized and not made use of in evidence, shall forthwith, by order of the Court where such offender or offenders shall be tried, or by order of some Justice of the Peace in case there shall be no such trial, be defaced or destroyed, or otherwise disposed of, as such Court or such Justice shall direct. 37 G. 3. c. 126. s. 7. 43 G. 3. c. 139. s. 7.

II. *Having in Possession, or making, mending, buying, altering, or concealing any Instrument applicable to counterfeiting the Coin.*

Reciting the Increase of Counterfeiting the Money of this Realm, which is much occasioned for want of condign punishment to be inflicted upon such Artificers and others who, without any lawful authority, do make or use Puncheons, Stamps, Dyes, and other Engines and Instruments which are commonly used or may be made use of in or about the coining of money; for redress of so great a mischief it is enacted, that no Smith, Engraver, Founder, or other person or persons whatsoever (other than and except the persons employed or to be employed in or for his Majesty's Mint or Mints in the Tower of London or elsewhere, and for the use and service of the said Mints only, or persons lawfully authorized by the Lords Commissioners of the Treasury or Lord High Treasurer of England for the time being), shall knowingly make or mend, or begin or proceed to make or mend, or assist in the making or mending of any Puncheon, Counter Puncheon, Matrix, Stamp, Dye, Pattern or Mould of steel, iron, silver, or other metal or metals, or of Spaud or of fine founders earth or Sand, or of any other materials whatsoever, in or upon which there shall be or be made or impressed, or which will make or impress the Figure, Stamp, Resemblance, or Similitude of both or either of the sides or flats of any Gold or Silver Coin current within this Kingdom; nor shall knowingly make or mend, or begin or proceed to make or mend, or assist in the making or mending of any Edger or Edging Tool, Instrument, or Engine not of common use in any trade, but contrived for *making* (1) of Money round the edges with

No persons (except those employed by the Mint, &c.) shall make or mend any dye, puncheon, &c. or edger or edging tool, &c. or engine not in use in any trade, nor any press, &c. used in coining.

1 Hale, P. C. 376.
2 Burr. 1036.

(1) Probably a misprint for marking.

Offenders guilty
of High Treason.

Letters, Grainings, or other Marks or Figures resembling those on the edges of money coined in his Majesty's Mint, nor any Press for Coinage, nor any Cutting Engine for cutting round Blanks by force of a screw out of flatted bars of gold, silver, or other metal; nor shall knowingly buy or sell, hide or conceal, or without lawful authority or sufficient excuse for that purpose knowingly have in his, her, or their houses, custody or possession, any such Puncheon, Counter Puncheon, Matrix, Stamp, Dye, Edger, cutting Engine, or other Tool or Instrument before mentioned: and if any smith, engraver, founder, or other person or persons whatsoever (other than and except as aforesaid), shall offend in any the matters or things aforesaid, then all and every such offender and offenders, their Counsellors, Procurers, Aiders, and Abettors, shall be and is and are hereby adjudged to be guilty of High Treason, and being of the said offences or any of them convicted or attainted, according to the course of the Laws of this Realm, shall suffer Death as in case of High Treason. 8, 9 W. 3. c. 26. s. 1.

This act is made perpetual by 7 Ann. c. 25. s. 1.

Persons conveying out of the Mint any puncheon, press, dye, &c. used for coining, guilty of High Treason.

If any person or persons whatsoever shall, without lawful authority for that purpose, wittingly or knowingly convey, or assist in the conveying out of his Majesty's Mint in the Tower of London, or out of any other of his Majesty's Mints, any Puncheon, Counter Puncheon, Matrix, Dye, Stamp, Edger, cutting Engine, Press, or other Tool, Engine, or Instrument used for or about the coining of Monies there, or any useful part of such tools or instruments, that then as well the said person and persons so offending, their Counsellors, Procurers, Aiders, or Abettors, as also all and every person and persons Knowingly Receiving, Hiding, or Concealing the same, shall be and is are hereby adjudged to be guilty of High Treason, and being of the said offences, or any of them convicted or attainted, according to the order and course of the Laws of this Realm, shall suffer Death as in cases of High Treason. 8 & 9 W. 3. c. 26. s. 2.

Puncheon, dye, engine, press, &c. found in the possession of any person (not authorized to have the same), may be seized by any person;

If any Puncheon, Dye, Stamp, Edger, cutting Engine, Press, Flask, or other tool, instrument, or engine used or designed for coining or counterfeiting Gold or Silver Monies, or any Part of such tool or engine, shall at any time be hid or concealed in any place, or found in the House, Custody, or Possession of any person or persons whatsoever, not then employed in the coining of Money in some of his Majesty's Mints, nor having the same by some lawful authority, that then it shall be lawful for any person or persons whatsoever, discovering the same, to seize, and he and

they is and are hereby authorized to seize the same, and to carry them forthwith to some Justice of Peace of the County, City, or Place where the same shall be so seized, and by him secured, to be produced in evidence against any person or persons, who shall or may be prosecuted for any such offence, in some Court of Justice proper for the determination thereof; and after such time as they or any of them shall have been produced in evidence, as well the same so produced as the other so seized and not made use of in evidence, and every of them, shall forthwith by order of that Court where such offender or offenders shall be tried, or by order and in the presence of such or some other Justice of the Peace, in case there be no such trial, be totally defaced and destroyed; and if any counterfeit or unlawfully diminished Money shall be produced in any Court of Justice, either in evidence against any person or persons for any offence relating to the counterfeiting or unlawfully diminishing of Money or otherwise, that then, or immediately after evidence given, the Judge or Judges of such Court shall cause such Monies to be cut in pieces in open Court, or in the presence of some Justice of the Peace, and then to be delivered to or for such person or persons to whom the same of right shall appertain. s. 5.

and after having been produced in evidence on the trial, shall be destroyed.

Counterfeit money shall be cut in pieces, after having been produced in evidence.

Attainder under this act shall not work Corruption of Blood or loss of Dower, and offenders shall be indicted, arraigned, tried, convicted, or attainted, as other offences may be, for counterfeiting the King's Money. s. 7.

Attainder not to work corruption of blood, or loss of dower.

Prosecutions under this act shall be commenced within three months after the offence committed. s. 9. Extended to six months by 7 Ann. c. 25. s. 2.

Limitation of Prosecutions.

III. i. *The offence of clipping, washing, rounding, filing, impairing, lightening, diminishing, falsifying, scaling, or melting the Coin of the Realm, or Foreign Coin current by Proclamation.*

Item, that no sterling halfpenny nor farthing be molten for to make vessel or any other thing, by goldsmiths nor other, upon forfeiture of the Money so molten; and that the goldsmith or other which hath so molten such Money, shall be committed to prison, there to remain till he hath yielded unto us the one half of that that he hath so molten, notwithstanding any Charter or Franchise granted or used to the contrary. 9 Ed. 3. st. 2. c. 3.

§ 1.
The punishment of melting down Copper Money.

Groat or half
groats shall not
be molten.

Foreign Coin
shall not be cur-
rent in England.

The punishment
for melting the
current Silver
Money.

The clipping,
washing, round-
ing, or filing of
the Coin of this
Realm, or
Foreign Coin
current here,
shall be High
Treason.

3 Inst. 17.
Dyer, 230.

Extended to such
as diminish, im-
pair, falsify, scale,

The statute 9 Ed. 3. st. 2. c. 3. "shall be firmly holden and kept; and moreover it is ordained and assented, that no Groat nor half Groat shall be molten by any man, to make vessel or other thing thereof," upon the same pain contained in the said statute. Foreign Coin shall not be current in the Realm. English Money shall not be exchanged for Scottish. 17 R. 2. c. 1.

By statute 17 Ed. 4. c. 1. no person shall melt down any Money of Gold or Silver sufficient to run in payment, upon pain of forfeiture of the value.

No person shall wilfully melt or cause to be melted any of the current Silver Money of this Realm, upon pain, not only of forfeiture of the same, but also of the double value of the Coin melted, one half to the King, and the other half to the informer suing for the same; and the offender, if he be a freeman or privileged person of any City or Corporation within England, shall upon legal conviction for the same, be forthwith disfranchised, and made incapable of exercising the trade of a goldsmith, or any other mystery, by virtue of the privileges of the City or Corporation of which he is a member; and if the person offending and convict as aforesaid shall not be a freeman or privileged person of any City or Corporation, then he shall suffer imprisonment, without bail or mainprize, for six months next ensuing his conviction. 13 & 14 Car. 2. c. 31.

The statute 5 Eliz. c. 11. reciting that the statute 3 H. 5. c. 6., concerning the clipping, &c. of Coin, is repealed by the statute 1 M. st. 1. c. 1., and the mischiefs that happen thereby, enacts, that "clipping, washing, rounding, or filing, for lucre or gain sake, of any the proper Monies or Coins of this Realm or the Dominions thereof, or of the Monies or Coins of any other Realm allowed and suffered to be current within this Realm or the Dominions thereof, or that hereafter at any time shall be the lawful Monies or Coins of this Realm or the Dominions thereof, or of any other Realm, and by Proclamation allowed and suffered to be current here, shall be taken, deemed, and adjudged by virtue of this act to be Treason, and the offenders therein, their Counsellors, Consenters, and Aiders shall be taken, deemed, and adjudged as offenders in Treason, and being thereof lawfully convicted or attainted according to the order and course of the Laws of this Realm, shall suffer pains of Death, and forfeit all their goods and chattels, and also shall lose and forfeit all their lands and tenements during life. s. 2.

The statute 18 Eliz. c. 1. recites that the falsifying, impairing, diminishing, and lightening of such last mentioned

Money, was not within the former statute of 5 Eliz., which being a penal Law, ought to be taken strictly and not by the equity of it, and then enacts, that if any person shall for lucre or gains-sake, by any act, ways, or means whatsoever impair, diminish, falsify, scale, or lighten the proper Monies or Coins of this Realm or any the Dominions thereof, or the Monies or Coins of any other Realm, allowed and suffered to be current at the time of the offence committed within this Realm of England, or any the Dominions of the same, by Proclamation, the offenders, their counsellors, consenters, and aiders shall be adjudged offenders in Treason, and being thereof lawfully convicted or attainted, shall suffer Death and lose and forfeit [their goods and lands as enacted by 5 Eliz. c. 11.]

or lighten such Coin.

3 Inst. 17.
1 Hale, P. C.
213. 217.

But there shall be no corruption of blood nor loss of dower, 5 Eliz. c. 11. s. 4. 18 Eliz. c. 1. s. 2. And Peers shall be tried by their Peers, 5 Eliz. c. 11. s. 5. 18 Eliz. c. 1. s. 3.

Blood and dower saved.

If any person, being out of prison, shall be guilty of clipping, coining, counterfeiting, washing, filing, or otherwise diminishing the Coin of this Realm, and afterwards discover two or more persons committing any such crimes, so as such persons be convicted of the same, such discoverer shall have and is hereby entitled to receive a pardon for all such crimes by him committed before such discovery made; and being an apprentice, shall be deemed a freeman, and may exercise his trade as if he had served his apprenticeship. 6 & 7 W. 3. c. 17. s. 12.

§ 2.

Offenders out of prison discovering and convicting two others, entitled to a pardon.

III. ii. *Regulations for preventing any Gold Coin, current in the United Kingdom, being received, paid, or accepted, for any more or less than the lawful value which such Coin, by its denomination, does or shall import.*

The Statute 51 G. 3. c. 127. which is intituled "An act for making more effectual provision for preventing the current Gold Coin of the Realm from being paid or accepted for a greater value than the current value of such Coin;" enacts, that from and after the passing of this act, no person shall receive or pay for any Gold Coin lawfully current within the Realm, any more in Value, Benefit, Profit, or Advantage, than the true lawful value of such Coin, whether such value, benefit, profit, or advantage be paid, made, or taken in lawful Money, or in any Note or Notes, Bill or Bills of the Governor and Company of the Bank of England, or in any Silver Token or Tokens issued by the said Governor and Company, or by any or all of the said means wholly or partly, or by any other means, Device, Shift, or Con-

Current Gold Coin shall not be received or paid for more than the true value.

trivance whatsoever; and every person who shall offend herein shall be deemed and adjudged guilty of a Misdemeanor.

Current Gold Coin shall not be received or paid for more than the true value.

By the Statute 52 G. 3. c. 50. intituled "An act to continue until three months after the commencement of the next Session of Parliament, and amend an act of the last Session of Parliament for making more effectual provision for preventing the current Gold Coin of the Realm from being paid or accepted for a greater value than the current value of such Coin, and to extend the same to Ireland;" reciting, that it is expedient that the act 51 G. 3. c. 127. should be continued and amended, and extended to Ireland; enacts, that from and after the passing of this act, no person shall receive or pay for any Gold Coin lawfully current within the United Kingdom, any more in Value, Benefit, Profit, or Advantage, than the true lawful value which such Gold Coin doth or shall by its denomination import, whether such value, benefit, profit, or advantage, be paid, made, or taken in lawful money, or if paid or taken in Great Britain, in any Note or Notes, Bill or Bills of the Governor and Company of the Bank of England, or in any Silver Token or Tokens issued by the said Governor and Company, or if paid or taken in Ireland in any Note or Notes, Bill or Bills of the Governor and Company of the Bank of Ireland, or in any Silver Token or Tokens issued by the said last mentioned Governor and Company, or by any or all of the said means, wholly or partly, or by any other means, Device, Shift, or Contrivance whatsoever; and every person who shall offend herein, shall be deemed and adjudged guilty of a Misdemeanor; and being thereof convicted by due course of Law, shall suffer six months imprisonment, and find sureties for his or her good behaviour for one year more, to be computed from the end of the said six months; and if the same person shall afterwards be convicted a second time of the like offence, such person shall for such second offence suffer one year's imprisonment, and find sureties for his or her good behaviour for one year more, to be computed from the end of the said last mentioned year; and if the same person shall afterwards offend against this act, and shall by due course of Law, be convicted of any subsequent Offence, he or she shall be imprisoned for the term of two years for every such subsequent offence.

The Statute 56 G. 3. c. 68. "to provide for a new Silver Coinage, and to regulate the Currency of the Gold and Silver Coin of this Realm," enacts (s. 13.) that from and after the passing of this act, no person shall by any means, Device, Shift, or Contrivance whatsoever, receive or pay for any Gold

Coin lawfully current within the United Kingdom of Great Britain and Ireland any more or less in value, benefit, profit, or advantage, than the true lawful value which such Gold Coin doth or shall by its denomination import, nor shall utter or receive any piece or pieces of Gold Coin of this Realm, at any greater or higher rate or value, nor at any less or lower rate or value than the same shall be current for in payment, according to the rates and values declared and set upon them pursuant to Law; and that every person who shall offend herein, shall be deemed and adjudged guilty of a Misdemeanor, and being thereof convicted by due course of Law, shall suffer imprisonment for the term of Six calendar months, and shall find sureties for his or her good behaviour for one year more, to be computed from the end of the said six months; and if the same person shall afterwards be convicted of the like offence, such person shall for such second offence suffer one year's imprisonment, and find sureties for his or her good behaviour for one year more, to be computed from the end of the said last mentioned year; and if the same person shall afterwards offend against this act, and shall by due course of Law be convicted of any subsequent offence, he or she shall be imprisoned for the term of two years for every such subsequent offence.

The certificate of the Clerk of Assize, &c. shall be sufficient proof of such former conviction. s. 14. By s. 15. Indictments shall not be Traversed; and by s. 16. it shall not, on prosecutions under this act, be necessary to prove that the Gold Coin received or paid contrary to this act, was the current Gold Coin of the Realm. See this Section at length under Division I. i. of this title, ante, p. 118; and see s. 4. of 52 G. 3. c. 50. post, p. 134.

If any person shall be convicted of receiving or paying any such Gold Coin contrary to the said recited act or this act, and shall afterwards be guilty of the like offence, the Clerk of the Assize, or Clerk of the Peace for the County, City, or Place where such conviction was so had, shall, at the request of the prosecutor, or any other person on his Majesty's behalf, certify such conviction; for which certificate two shillings and sixpence, and no more, shall be paid; and such certificate being produced in court shall be sufficient proof of such former conviction. 52 G. 3. c. 50. s. 2.

When persons who have been convicted shall again offend, the Clerk of Assize, &c. shall certify former conviction.

No person against whom any Bill of Indictment shall be found at any Assizes or Sessions of the Peace, for any offence against the said recited act or this act, shall be entitled to

Indictments shall not be traversed.

Traverse the same to any subsequent Assises or Sessions; but the Court at which such Bill of Indictment shall be found, shall forthwith proceed to try the person or persons against whom the same shall be found, unless he or they shall shew good cause to be allowed by the Court, why his, her, or their trial should be postponed. s. 3.

On prosecution
it shall not be
necessary to
prove the Money
good and lawful.

Provided always, that on any prosecution or trial of any offender or offenders hereafter to be prosecuted or tried for any offence against the said recited act or this act, it shall not be necessary to prove that the Money, Notes, Bills, Tokens, Securities, Warrants, or Orders for Payment of Money, or any or either of them, received or paid for any such Gold Coin, are respectively good, lawful, and current Money of this Realm, or good, valid, and effectual Notes, Bills, Tokens, Securities, Warrants, or Orders for Payment of Money, or that the same Money, Notes, Bills, Tokens, Securities, Warrants, or Orders for Payment of Money, are respectively of the value, they on the face of them import; but that such Money, Notes, Bills, Tokens, Securities, Warrants, or Orders for Payment of Money, shall be deemed and taken to be good, valid, and effectual respectively, and of the respective Values which on the face of them they import, until the contrary shall be proved to the satisfaction of the Judge, Justice, or Court before whom such offender or offenders shall be prosecuted or tried respectively; nor shall it be necessary in any such prosecution or trial of any offender or offenders hereafter to be prosecuted or tried for any offence against the said recited act or this act, to prove that the Gold Coin received or purchased contrary to the said recited act or this act, is the current Gold Coin of this Realm, but the same shall be deemed and taken so to be, if paid or received as such, until the contrary thereof shall be proved to the satisfaction of the Judge, Justice, or Court before whom any such offender or offenders shall be prosecuted or tried. s. 4.

The above Statute of 52 G. 3. c. 50. was to continue till three months after the commencement of the [then] next Session of Parliament, and was by the Statute 53 G. 3. c. 5. further continued till 25th March 1814, but having been suffered to expire, was finally, by statute 54 G. 3. c. 52. revived and continued generally during the continuance of any act imposing any Restriction on the Governor and Company of the Bank of England with respect to Payments in Cash.

III. iii. *Exchanging, lending, selling, buying, receiving or paying current Silver Money, &c. for more than the same was coined for.*

If any person or persons shall at any one time or payment exchange, sell, borrow or buy, receive or pay any broad Silver Money, or Silver Money unclipped, of the Coin of this Kingdom, for more in tale, benefit, profit, or advantage than the same was coined for, and ought by law to go for, be lent, sold for, borrowed or bought, received, or paid, shall forfeit the sum of £10 for every 20s. that shall be so exchanged, lent, sold for, borrowed or bought, received or paid, and so in proportion for any greater or lesser sum, one moiety to the King and the other to the informer, to be recovered (with costs of suit) by action of debt, &c. 6, 7 W. 3. c. 17. s. 2. The Crimes and Offences specified and mentioned in the Statute 6, 7 W. 3. c. 17. may be heard and determined upon Indictment or Presentment in K. B. or before Justices of Oyer and Terminer, or Justices of Assize, or General Gaol Delivery. 8, 9 W. 3. c. 26. s. 8. This act is made perpetual by Statute 7 Ann. c. 25. s. 1.

The penalty for buying, selling, exchanging, &c. the current Silver Coin for more than it was coined for.

Where offences may be tried.

III. iv *Buying, selling, or knowingly having in Possession the Clippings or Filings of the current Coin of the Realm.*

For better preventing the clipping, diminishing, or impairing the current Coin of this Kingdom, be it enacted, that if any person whatsoever shall Buy or Sell, and knowingly have in his Custody or Possession any Clippings or Filings of the current Coin of this Kingdom, he shall for every such offence forfeit the said Clippings or Filings, and also the sum of £500, one moiety to the King and the other to the Informer, to be recovered (with costs of suit by action of debt, &c. see s. 2.), and shall be also branded in the right cheek with a hot iron with the letter R. and until payment of such £500 shall suffer imprisonment. 6, 7 W. 3. c. 17. s. 4. By s. 9. a Reward of £40 was given to persons convicting offenders guilty of clipping, &c. the current Coin, but this section is Repealed by stat. 58 G. 3. c. 70. s. 1. Offences under the act of 6, 7 W. 3. c. 17. may be heard and determined upon indictment or presentment in K. B. or before Justices of Oyer and Terminer, or Justices of Assize, or General Gaol Delivery. 8, 9 W. 3. c. 26. s. 8. Made perpetual by 7 Ann. c. 25. s. 1.

Penalty on persons buying, selling, or having in possession, the clippings or filings of the current Coin.

Where offence may be tried.

III. v. *Seizing and destroying diminished Gold and Silver Coin tendered in Payment.*

§ 1.

Persons to whom diminished Silver Coin is tendered, may cut or deface the same.

Who shall determine disputes.

See post, § 2. as to Gold Coin.

§ 2.

It is and shall be lawful to and for any person to whom any Silver Money shall be tendred, any piece or pieces whereof shall be diminished, otherwise than by reasonable wearing, or that by the stamp, impression, colour, or weight thereof he shall suspect to be counterfeit, to cut, break, or deface such piece or pieces, and if any piece so cut, broken, or defaced shall appear to be counterfeit, the person tendring the same shall bear the loss thereof; but if the same shall be of due weight, and appear to be lawful money, the person that cut, broke, or defaced the same shall and is hereby required to take and receive the same at the rate it was coined for; and if any question or dispute shall arise whether the piece so cut be counterfeit, it shall be heard and finally determined by the Mayor, Bailiff or Bailiffs, or other Chief Officer of any city or town corporate where such tender shall be made; and if such tender shall be made out of any city or town corporate, then by the next Justice of the Peace of the county inhabiting or being near the place where such tender shall be made; and the said Mayor or other Chief Officer and Justice of the Peace shall have full power and authority to administer an oath, as he shall see convenient, to any person for the determining any questions relating to the said piece. 9, 10 W. 3. c. 21. s. 1.

The stat. 13 G. 3. c. 71. reciting that “the preventing the currency of clipped and unlawfully diminished and counterfeit money is a more effectual means to preserve the Coin of this Kingdom entire and pure than the most rigorous laws for the punishment of such as diminish or counterfeit the same, and that by the known Laws of this Kingdom no person ought to pay, or knowingly tender in payment any counterfeit or unlawfully diminished money, and that all persons may not only refuse the same, but may and by the ancient statutes and ordinances of this Kingdom have been required to destroy and deface the same; and that to the end the same might be the better discerned and known by the antient course of the receipt of the Exchequer all money ought to be received there by weight as well as tale;” and reciting that by 9 10 W. 3. c. 21. “provisions are made for preventing the currency of clipped and counterfeit *Silver* Money, but that respecting the Gold Money no provision is thereby made,” declares and enacts, that it shall be lawful to

and for any person to whom any Gold Money shall be tendered, any piece or pieces whereof shall be diminished otherwise than by reasonable wearing, or that by the stamp, impression, colour, or weight thereof he shall suspect to be counterfeit, to cut, break, or deface such piece or pieces: and if any piece so cut, broken, or defaced shall appear to be diminished (otherwise than by reasonable wearing) or counterfeit, the person tendering the same shall bear the loss thereof; but if the same shall be of due weight, and appear to be lawful money, the person that cut, broke, or defaced the same, shall and is hereby required to take and receive the same at the rate it was coined for; and if any question or dispute shall arise whether the piece so cut be counterfeited or diminished in manner aforesaid, it shall be heard and finally determined by the Mayor, Bailiff or Bailiffs, or other Chief Officer of any city or town corporate where such tender shall be made; and if such tender shall be made out of any city or town corporate, then by some Justice of the Peace of the county, inhabiting or being near the place where such tender shall be made; and the said Mayor or other Chief Officer and Justice of the Peace shall have full power and authority to administer an oath, as he shall see convenient, to any person for the determining any question relating to the said piece. — See also the statute 56 G. 3. c. 68. s. 7. Division I. i. of this Title.

Persons to whom diminished or counterfeit Gold Coin is tendered, may cut or deface it.

IV. Receiving, paying, or putting off counterfeit Money, at or for a lower rate or value than its denomination imports, and uttering or tendering in Payment any counterfeit Money.

If any person or persons shall take, receive, pay, or put off, any counterfeit Milled Money, or any Milled Money whatsoever unlawfully diminished, and not cut in pieces, at or for a lower rate or value than the same, by its denomination, doth or shall import, or was coined or counterfeited for, that then all and every such person and persons shall be deemed and adjudged guilty of Felony, and being thereof convicted or attainted according to the order and course of the Laws of this Realm, shall suffer Death as in case of Felony. 8, 9 W. 3. c. 26. s. 6. This act is made perpetual by 7 Anne, c. 25. s. 1.

§ 1.

Persons uttering counterfeit Milled Money, guilty of Felony.

Attainder, for any offence made Treason or Felony by this act, shall not work Corruption of Blood or Loss of Dower, s. 7.; and offenders accused of any offence made Treason or Felony by

Attainders not to work corruption of blood, &c.

Limitation of
prosecutions.

this act, shall be indicted, arraigned, tried, convicted, or attainted by such evidence and in such manner as may by Law be used against offenders counterfeiting the King's Money. Prosecutions shall be commenced within three months after the offence committed. 8 & 9 W. 3. c. 26. s. 9. Extended to six months, by 7 Ann. c. 25. s. 2.

Persons buying,
selling, or putting
off, &c. counter-
feit Copper
Money, guilty of
felony.

If any person or persons shall, from and after 24th June 1771, buy, sell, take, receive, pay, or put off any counterfeit copper Money not melted down or cut in pieces, at or for a lower rate or value than the same by its denomination doth or shall import or was counterfeited for, every such person and persons shall be adjudged guilty of Felony. 11 G. 3. c. 40. s. 2.

§ 2.

The Statute 15 & 16 G. 2. c. 28. intituled, "An act for the more effectual preventing the counterfeiting of the current Coin of this Kingdom, and the uttering or paying of false or counterfeit Coin," reciting, that the uttering of false Money, knowing it to be false, is a Crime frequently committed all over the Kingdom, and the offenders therein are not deterred, by reason that it is only a misdemeanor, and the punishment very often but small, though there be great reason to believe, that the common utterers of such false Money are either themselves the Coiners, or in confederacy with the Coiners thereof; for preventing whereof, enacts, that if any person whatsoever shall, after the 29th September 1742, utter or tender in payment any False or Counterfeit Money, knowing the same to be false or counterfeit, to any person or persons, and shall be thereof convicted, such person so offending shall suffer six months imprisonment, and find sureties for his or her good behaviour for six months more, to be computed from the end of the said first six months; and if the same person shall afterwards be convicted a second time of the like offence of uttering or tendering in payment any false or counterfeit Money, knowing the same to be so, such person shall, for such second offence, suffer two years imprisonment, and find sureties for his or her good behaviour for two years more, to be computed from the end of the said first two years; and if the same person shall afterwards offend a third time in uttering or tendering in payment any false or counterfeit Money, knowing the same to be so, and shall be convicted of such third offence, he or she shall be, and is hereby adjudged to be, guilty of Felony, without Benefit of Clergy. s. 2.

Uttering false
money knowing-
ly, six months
imprisonment,
and security for
six months more;

for the second
offence, two
years imprison-
ment, and secu-
rity for two years
more;

for the third
offence, felony,
without benefit
of clergy.

Persons uttering
counterfeit
money, and with-
in ten days after-

If any person whatsoever shall, after the said 29th September, utter or tender in payment any false or counterfeit Money, know-
ing the same to be false or counterfeit, to any person or persons,

and shall, either the same day, or within the space of ten days then next, utter or tender in payment any more or other false or counterfeit Money, knowing the same to be false or counterfeit, to the same person or persons, or to any other person or persons, or shall at the time of such uttering or tendering have about him or her, in his or her custody, one or more piece or pieces of counterfeit Money, besides what was so uttered or tendered, then such person so uttering or tendering the same, shall be deemed and taken to be a Common Utterer of False Money, and being thereof convicted, shall suffer a year's imprisonment, and shall find sureties for his or her good behaviour for two years more, to be computed from the end of the said year; and if any person having been once so convicted as a common utterer of false Money, shall afterwards again utter or tender in payment any false or counterfeit Money to any person or persons, knowing the same to be false or counterfeit, then such person being thereof convicted, shall for such second offence be, and is hereby adjudged to be, guilty of Felony without Benefit of Clergy. s. 3.

wards committing the like offence, or at the time of such uttering having about them other counterfeit money, guilty of a misdemeanor for the first offence;

second offence, felony, without clergy.

The person and persons convicted of any of the Treasons and Felonies respectively herein-before mentioned (1), shall suffer Death as in case of High Treason and felony respectively, but the blood of the heirs of such offenders shall not be thereby corrupted, nor shall his wife thereby forfeit or lose her dower out of or in his lands or real estate. s. 4. The person and persons that shall be guilty of any of the treasons, felonies, or crimes aforesaid, shall be indicted, arraigned, tried, and convicted by such like evidence, and in such manner as is now used and allowed against any offenders for counterfeiting the lawful Coin, provided that there shall be no prosecution for any of the offences made Treason or Felony by this act, unless such prosecution be commenced within six months next after such offence shall be committed. s. 5.

Not to work Corruption of Blood or Loss of Dower.

Evidence to be the same as now used against persons counterfeiting Coin.

By s. 7. a Reward of £40 was given to the prosecutor to conviction of persons guilty of High Treason under this act; but this reward is taken away by the Statute 58 G. 3. c. 70. repealing the above last mentioned section. See title REWARDS.

And be it hereby further enacted, that whoever being out of prison, shall, after the said 29th September, commit any of the offences aforesaid, and shall afterwards discover two or more persons, who shall, after the time aforesaid, have committed any of the said offences, so as such two or more persons shall

If any offender, being out of prison, impeach and convict two others, he shall be pardoned.

(1) See Division I. ii. § 3. of this title.

be thereof convicted, such discoverer shall have, and is hereby entitled to his Majesty's most gracious Pardon for such his or her offences. s. 8.

Certificate of Clerk of Assise, &c. shall be proof of the first conviction.

If any person shall be convicted of uttering or tendering any false or counterfeit Money as aforesaid, and shall afterwards be guilty of the like offence, in any other County or City, the Clerk of the Assize, or Clerk of the Peace for the County or City where such first conviction was so had, shall, at the request of the prosecutor, or any other on his Majesty's behalf, Certify the same by a Transcript in few words, containing the Effect and Tenor of such conviction; for which certificate two shillings and sixpence, and no more, shall be paid; and such certificate being produced in Court, shall be sufficient proof of such former conviction. s. 9.

§ 3.

And whereas by an act [7 Ann. c. 24.] there is (by s. 4.) a limited sum of £400 a year directed to be allowed out of the Coinage Duty for the expences of prosecuting Offenders against the Laws relating to the Coin; which sum for several years last past has proved greatly deficient, be it therefore hereby further enacted, that the Lord High Treasurer, or the Lords Commissioners of the Treasury for the time being, shall and may at all times hereafter order and allow out of the money arising by the said Coinage Duty, such sums of money, for defraying the future expences of the said Prosecutions, as he or they shall see fit, provided the said expences do not, in any one year, exceed the sum of £600. s. 10.

Lords Commissioners of the Treasury may allow annually £600 for expences of prosecuting coiners.

V. Importing Counterfeit Coin.

§ 1.

Counterfeit Money shall not be imported.

Item, that no false money or counterfeit sterling be brought into this Realm, nor elsewhere within our Power, upon forfeiture of such money; so always that all people of what Realm or Dominion they be, may safely bring to the Exchequer, and to no place else, Bullion or Silver in plate, vessel of Silver, and all manner of money of Silver, of what value soever it be (saving false money and sterling counterfeit), and there receive good and convenient exchange. 9 Ed. 3. c. 2.

It shall be high treason to import foreign counterfeit Coin with intent to utter it in England.

If a man bring false Money into this Realm, counterfeit to the Money of England, as the Money called Lushburgh or other like to the said Money of England, knowing the Money to be false, to merchandize or make payment in deceit of the King and his people, that in the cases above rehearsed, that

ought to be judged Treason which extends to the King and his Royal Majesty. 25 Ed. 3. st. 5. c. 2.

Reciting that Coins of Gold and Silver of other Realms not being the proper Coin of this Realm, and yet by sufferance current in payment within this Realm, many evil-disposed persons had brought into this Realm from parts beyond the Sea, forged and counterfeit Money like to the Coin of other foreign Realms, and had uttered the same here by merchandize, such persons understanding there was not any Law to provide condign punishment for them; it is enacted, that if any person shall bring from the parts beyond the Sea into this Realm, or into any of the Dominions of the same, any such false and counterfeit Coin or Money, being current within this Realm as is aforesaid, knowing the same Coin or Money to be false and counterfeit, to the intent to utter or make payment with the same within this Realm, or any the Dominions of the same, by merchandizing or otherwise, that every such person so offending, their counsellors, procurers, aiders, and abettors in that behalf shall be deemed and adjudged to be offenders in High Treason, and shall suffer, after lawful conviction or attainder thereof, such pains of death, loss and forfeiture of lands, goods, and chattels, as other offenders shall do in cases of High Treason.

1, 2 P. & M. c. 11. s. 2.

By s. 3. persons accused or impeached of any of the offences in this statute concerning the impairing, counterfeiting, or forging Coin current in the Realm shall be indicted, arraigned, tried, convicted, or attainted by such evidence, and in such manner as hath been accustomed at any time before the first year of the reign of King Edward the sixth. Mode of trial.

The statute 37 G. 3. c. 126. (s. 2.) recites, "that the practice of counterfeiting foreign Gold and Silver Coin, and the bringing into this Realm and uttering within the same false and counterfeit foreign Gold and Silver Coin, and particularly pieces of Gold Coin commonly called Louis d'or, and pieces of Silver Coin commonly called Dollars, hath of late greatly increased, and it is expedient that provision should be made, more effectually to prevent the same;" and then enacts, that if any person or persons shall, from and after the passing of this act, make, coin, or counterfeit any kind of Coin, not the proper Coin of this Realm, nor permitted to be current in this the same, but resembling or made with intent to resemble or look like any Gold or Silver Coin of any foreign Prince, State, or Country, or to pass as such foreign Coin, such person or persons Persons counterfeiting foreign gold or silver Coin, not current in this Realm, shall be guilty of felony.

Persons knowingly importing such counterfeit foreign Coin guilty of felony.

so offending therein shall be deemed and adjudged to be guilty of felony, and may be transported for any term of years not exceeding seven years : and then it is enacted by the third section, that if any person or persons shall, from and after the passing of this act, bring into this Realm, any such false or counterfeit Coin as aforesaid, resembling or made with intent to resemble or look like any Gold or Silver Coin of any Foreign Prince, State, or Country, or to pass as such Foreign Coin, knowing the same to be false or counterfeit, to the Intent to utter the same within this Realm, or within any Dominions of the same, all and every such person or persons shall be deemed and adjudged to be guilty of Felony, and may be Transported for any term of years not exceeding Seven years.

VI. i. *Exporting the Coin of the Realm.*

Sterling shall not be exported.

It is provided, that from henceforth no religious man nor other shall carry any Sterling out of the Realm of England, nor Silver in Plate, nor Vessel of Gold nor of Silver, upon pain of forfeiture of the Money, Plate, or Vessel, that he so carry without our especial licence. 9 Ed. 3. st. 2. c. 1.

Exportation of gold and silver money prohibited.

It is ordained, that none carry out of the Realm Gold nor Silver, in Plate nor in Money, saving the Victuallers of Fish and they that bring Fish into the Realm, &c. 38 Ed. 3. c. 2.

The exportation of gold and silver in money, bullion, plate, &c. prohibited ;

It is assented and accorded, and the King enjoineth all manner of people, Merchants, Clerks, and others, as well strangers as denizens, of what estate or condition they be, upon pain of as much as they may forfeit, that none of them upon the said pain, privily, nor openly send nor carry, nor cause to be sent or carried out of the said Realm, any Gold or Silver in Money, Bullion, Plate, or Vessel, neither by Exchanges to be made, nor in any other manner. 5 R. 2. st. 1. c. 2.

on pain of forfeiture.

Gold or Silver in Coin, or in mass, shipped for exportation without licence, and found by the King's Searcher at any port shall be forfeited. 2 H. 4. c. 5.

Exportation of gold and silver prohibited.

No Gold nor Silver shall be carried out of the Realm contrary to the said statute [2 H. 4. c. 5.], unless for payment of wars and the King's Soldiers beyond the sea, on pain of forfeiture of the value of the Sum of Money so carried out of the Realm, to be levied of him that shall bring, carry, or send it out of the same Realm; and that he which espieth it, and thereof giveth knowledge to the Council or Treasurer of England, shall have the fourth part of the forfeiture so due to the King. 2 H. 6. c. 6.

VI. ii. *Exporting certain counterfeit Coin to the West Indies or America, or shipping the same with such intent.*

The statute 38 G. 3. c. 67. intituled, "An act to prevent the Exportation of Base Coin to his Majesty's Colonies in the West Indies and America," recites, that "various base Copper Coins made to the resemblance and similitude of the foreign Copper Coins, called *Tempes* and *Sous Marques*, have been exported from this Kingdom to the Island of Martinique in the West Indies, under the denomination of wrought copper; and whereas base Coin made to the similitude and resemblance of the foreign Gold and Silver Coins, called *Johannes* and *Dollars*, have been circulated in his Majesty's Islands in the West Indies, and in other his Majesty's Colonies in America, to the great injury of the inhabitants of the said Islands and Colonies;" and then, "for preventing the like and similar evils in future," enacts, that all Copper Coin whatsoever, not being the legal Copper Coin of this Kingdom, and all Counterfeit Gold or Silver Coin made to the similitude or resemblance, or intended to resemble any Gold or Silver Coin, either of this Kingdom or of any other country, which shall, under any pretence, name, or description whatsoever, be exported, or shipped, or laden, or put on board any ship, vessel, or boat, for the purpose of being exported from this Kingdom to the said Island of Martinique, or any of his Majesty's Islands or Colonies in the West Indies or America, shall be forfeited, and the same shall and may be seized, sued for, prosecuted, and recovered in such Courts and by such and the like ways, means, and methods, and the produce thereof disposed of and applied in such and the like manner, and to such and the like uses and purposes as any forfeiture incurred by any Law respecting the Revenue of the Customs, may now be seised, sued for, prosecuted, or recovered, disposed of and applied either in this Kingdom or in any of his Majesty's Islands in the West Indies respectively, as the case may happen to be.

Copper Coin, not being legal Coin, and counterfeit gold or silver Coin exported or shipped for that purpose to the West Indies or America shall be forfeited.

Every person who shall so export or shall so ship, lay, or put on board any ship, vessel, or boat, in order to be so exported, or shall cause or procure to be so exported, shipped, or put on board any ship, vessel, or boat, or shall have in his or her custody, in order to be so exported, any such Coin as afore said, shall for every such offence forfeit the sum of £200 and double the value of such Coin, to be recovered by bill, suit, action, or information in any of his Majesty's Courts of Record at Westminster. s. 2.

And persons so exporting or shipping it shall forfeit £200.

VII. *Blanching Copper, or mixing Blanched Copper with Silver, or buying or selling, &c. the same, or any malleable Composition to look like Gold.*

Persons blanching copper for sale, or mixing blanching copper with silver, guilty of felony.

If any person or persons whatsoever shall Blanch Copper for sale, or mix blanching Copper with Silver, or knowingly buy or sell, or offer to sale blanching Copper alone or mixed with Silver, or shall knowingly and fraudulently buy or sell or offer to sale any malleable composition or mixture of metals or minerals, which shall be heavier than Silver, and look, and touch, and wear like standard Gold, but be manifestly worse than standard; that then all and every such person and persons shall be adjudged guilty of Felony; and being thereof convicted or attainted, according to the order and course of the Laws of this Realm, shall suffer Death as in case of Felony. 8 & 9 W. 3. c. 26. s. 6. This Statute made perpetual by 7 Ann. c. 25. s. 1.

VIII. *Having in possession, or tendering in Payment, or putting off counterfeit Foreign Coin.*

§ 1.
Persons knowingly tendering in payment, &c. counterfeit foreign gold or silver Coin, guilty of a misdemeanor for the first two offences;

If any person or persons shall, from and after the passing of this act, utter or tender in payment or give in exchange, or pay or put off to any person or persons any such (1) false or counterfeit Coin as aforesaid, (1) resembling or made with intent to resemble or look like any Gold or Silver Coin of any Foreign Prince, State, or Country, or to pass as such Foreign Coin, knowing the same to be false or counterfeit, and shall be thereof convicted, every person so offending shall suffer six months imprisonment, and find sureties for his or her good behaviour for six months more, to be computed from the end of the said first six months, and if the same person shall afterwards be convicted a second time for the like offence of uttering, tendering in payment or giving in exchange, or paying or putting off any such false or counterfeit Coin as aforesaid, knowing the same to be false or counterfeit, such person shall, for such second offence, suffer two years imprisonment, and find sureties for his or her good behaviour for two years more, to be computed from the end of the said first two years; and if the same person shall afterwards offend a third time in uttering or tendering in payment or giving in exchange, or paying or putting off any such false or counterfeit Coin as aforesaid, knowing the same to be false or counterfeit, and shall be convicted of such third offence, he or she shall be adjudged to be guilty of Felony, without Benefit of Clergy. 37 G. 3. c. 126. s. 4.

and for the third offence ousted of clergy.

(1) See Division I. iii. § 3. of this title.

If any person shall be convicted of uttering or tendering any such false or counterfeit Coin as aforesaid, and shall afterwards be guilty of the like offence in any other County, City, or Place, the Clerk of the Assise or Clerk of the Peace for the County, City, or Place where such former conviction shall have been had, shall, at the request of the Prosecutor, or any other on his Majesty's behalf, Certify the same by a Transcript in few words containing the Effect and Tenor of such Conviction, for which certificate two shillings and sixpence, and no more, shall be paid; and such certificate being produced in Court, shall be sufficient proof of such former conviction. 37 G. 3. c. 126. s. 5.

Clerk of Assise's certificate shall be evidence of a prior offence.

If any person or persons shall have in his, her, or their custody, without lawful excuse, any greater number of pieces than five pieces of false or counterfeit Coin of any kind or kinds, resembling or made with intent to resemble or look like any Gold or Silver Coin or Coins of any Foreign Prince, State, or Country, or to pass as such Foreign Coin, every such person being thereof convicted upon the oath of one or more credible witness or witnesses, before one of his Majesty's Justices of the Peace, shall forfeit and lose all such false and counterfeit Coin, which shall be cut in pieces and destroyed by order of such Justice; and shall for every such offence forfeit and pay any sum of money not exceeding Five Pounds, nor less than Forty Shillings for every such piece of false or counterfeit Coin which shall be found in the custody of such person, one moiety to the informer or informers, and the other moiety to the poor of the Parish where such offence shall be committed; and in case any such penalty shall not be forthwith paid, it shall be lawful for such Justice to commit the person who shall be adjudged to pay the same to the Common Gaol or House of Correction, there to be kept to hard labour for the space of three calendar months, or until such penalty shall be paid. s. 6.

Penalty on having in possession such counterfeit Coin £5 to 40s.

Cognizable summarily before one Justice.

By s. 7. Justices of Peace may grant warrants for securing suspected places for counterfeit Foreign Coin. See this section at length under Division I. iii. of this title.

The Statute 43 G. 3. c. 139. which is intituled "An act for preventing the counterfeiting of Foreign Copper Money," enacts, s. 6. that if any person or persons shall have in his, her, or their custody, without lawful excuse, any greater number of pieces than five pieces of false or counterfeit coin of any kind or kinds, resembling or made with intent to resemble any such Copper or other Coin as aforesaid (1), every such person being

Penalty on persons having in possession counterfeit foreign copper Coin 40s. to 10s.

(1) See ante, Division I. iv.

thereof convicted upon the oath of one or more credible witness or witnesses before one of his Majesty's Justices of the Peace, shall forfeit and lose all such false and counterfeit Coin, which shall be cut in pieces and destroyed by order of such Justice, and shall, for every such offence, forfeit and pay any sum of money not exceeding Forty Shillings, nor less than Ten Shillings for every such piece of false or counterfeit Coin which shall be found in the custody of such person; one moiety to the informer or informers, and the other moiety to the poor of the parish where such offence shall be committed; and in case any such penalty shall not be forthwith paid, it shall be lawful for any such Justice to commit the person who shall have been adjudged to pay the same, to the Common Gaol or House of Correction, there to be kept to hard labour for the space of three calendar months, or until such penalty shall be paid.

[By s. 7. one Justice of Peace may issue his warrant to search for such counterfeit Coin, or implements, tools, or utensils. See Division I. iii.]

IX. *Trial of Offences relating to the Coin.*

Justices of Assize empowered to try offences relating to the Coin.

And also Justices of Peace by commission.

The King's Justices assigned to take Assizes in all the Counties of England, shall have power, by the King's Commissions, to hear and determine in their Session as well of the counterfeiting and of bringing of false Money into the Realm, as of clipping, washing, and every other falsity of the said Money; and that the Justices of Peace through the Realm shall have power by the King's Commission to enquire of all such matters, and thereupon to make process by Capias only against those which before them shall be thereof indicted. 3 H. 5. c. 7.

In all cases of High Treason, concerning Coin current within this Realm, such manner of Trial and none other shall be observed and kept as heretofore hath been used by the Common Laws of this Realm, any law, statute, or any other thing or things to the contrary notwithstanding. 1, 2 P. & M. c. 10. s. 12.

See further the statute 15, 16 G. 2. c. 28. s. 5. under Division I. ii. of this Title, which relates to the mode of trial of Offences relating to the Coin created by that act, and other Divisions of this Title, *passim*.

Colonies:

(And see Title EAST INDIA COMPANY.)

Oppressions, crimes, and offences committed in the

Whereas a due punishment is not provided for several crimes and offences committed out of this his Majesty's Realm of England, whereof divers Governors, Lieutenant Governors,

Deputy Governors, or Commanders in Chief of Plantations and Colonies within his Majesty's Dominions beyond the Seas have taken advantage, and have not been deterred from oppressing his Majesty's subjects within their respective Governments and Commands, nor from committing several other great Crimes and Offences, not deeming themselves punishable for the same here, nor accountable for such their crimes and offences to any person within their respective Governments and Commands; for remedy whereof be it enacted, that if any Governor, Lieutenant Governor, Deputy Governor, or Commander in Chief of any Plantation or Colony within his Majesty's Dominions beyond the Sea, shall, after 1st August 1700, be guilty of Oppressing any of his Majesty's subjects beyond the Seas within their respective Governments or Commands, or shall be guilty of any other Crime or Offence contrary to the Laws of this Realm, or in force within their respective Governments or Commands, such Oppressions, Crimes, and Offences shall be inquired of, heard, and determined in his Majesty's Court of King's Bench here in England, or before such Commissioners, and in such County of this Realm as shall be assigned by his Majesty's Commission and by good and lawful men of the same county; and that such punishments shall be inflicted on such offenders as are usually inflicted for offences of like nature committed here in England.

Colonies and Plantations may be tried in K. B. in England, or in any County, by commission;

and shall be punished in like manner as similar offences are in England.

11, 12 W. 3. c. 12.

The Statute 42 G. 3. c. 85. "for the trying and punishing in Great Britain persons holding Public Employments, for Offences committed Abroad," reciting that persons holding and exercising public Employments out of Great Britain often escape punishment for offences committed by them, for want of Courts having a sufficient Jurisdiction, in or by reason of their departing from the country or place where such offences have been committed, and that such persons cannot be tried in Great Britain for such offences as the law now stands, inasmuch as such offences cannot be laid to have been committed within the Body of any County; and that it is therefore expedient that such and the like provisions as are contained in an act [11 & 12 W. 3. c. 12. see above], and an act passed in the Thirteenth year of the reign of his present Majesty [13 G. 3. c. 63.]; and in an act passed in the Twenty-fourth Year of the reign of his present Majesty [24 Geo. 3. st. 2. c. 25.] (1) should be extended and applied to the punishment of such offenders, enacts, that from and after the passing of this act, if any person who now is or

Offences committed by persons employed

(1) See these Statutes under Title EAST INDIA COMPANY.

in any public service abroad may be prosecuted in the Court of K. B. in England; and may be laid in Middlesex, and the offenders punished as if the offences had been committed in England.

heretofore has been, or shall hereafter be employed by or in the Service of his Majesty, his heirs or successors, in any Civil or Military Station, Office, or Capacity out of Great Britain, or shall heretofore have had, held, or exercised, or now has, holds, or exercises, or shall hereafter have, hold, or exercise any public Station, Office, Capacity, or Employment out of Great Britain, shall have committed, or shall commit, or shall have heretofore been, or is or shall hereafter be guilty of any Crime, Misdemeanour, or Offence, in the execution, or under colour, or in the exercise of any such Station, Office, Capacity, or Employment as aforesaid, every such crime, offence, or misdemeanor may be prosecuted or enquired of, and heard and determined in his Majesty's Court of King's Bench here in England, either upon an Information exhibited by his Majesty's Attorney General, or upon an Indictment found, in which information or indictment such crime, offence, or misdemeanor may be laid and charged to have been committed in the County of Middlesex, and all such persons so offending, and also all persons tried under any of the provisions of the said recited act, passed in the Reign of King William aforesaid, or this act, or either of them, for any offence, crime, or misdemeanor, and not having been before tried for the same out of Great Britain, shall, on conviction, be liable to such punishment as may, by any Law or Laws now in force, or any act or acts that may hereafter be passed, be inflicted for any such crime, misdemeanor, or offence committed in England, and shall also be liable, at the discretion of his Majesty's Court of King's Bench, to be adjudged to be incapable of serving his Majesty in any Station, Office, or Capacity, Civil or Military, or of holding or exercising any public Employment whatever. s. 1.

The Court of K. B. on motion may award a Writ of Mandamus to any Court of Judicature, or the Governor, &c. of the Country where the offence was committed to obtain proofs of the matters charged in the indictment which shall be done by *visa voce* evidence, and the same shall be transmitted to

In all cases of indictments found or informations exhibited under and by virtue of this act, it shall be lawful for his Majesty's said Court of King's Bench, upon Motion to be made, and such notice thereof as to the said Court of King's Bench may appear to be sufficient, by or on behalf of his Majesty's Attorney General or other prosecutor, or of the defendant or defendants, to award at the discretion of the said Court, a writ or writs of *Mandamus* to any Chief Justice and Judges, or any Chief Justice or other Judge singly for the time being, of any Court or Courts of Judicature in the Country or Island, or near to the place where the Crime, Offence, or Misdemeanor shall be charged in such Indictment or Information to have been committed, or to any Governor or Lieutenant Governor, or other person having any chief authority in such Country,

Island; or place, or to any other person or persons residing there, as the case may require, and as to the said Court of King's Bench may, under all the circumstances of the case, seem most expedient for the purpose of obtaining and receiving proofs concerning the matters charged in any such Indictment or Information; and the person or persons to whom such writ or writs shall be directed and sent, are hereby respectively authorized and required to hold a Court, Session, or Meeting, with all convenient speed, for the examination of witnesses and receiving other proofs concerning the matters charged in such Indictment or Information respectively; and in the mean time to cause public notice to be given of the holding the said Court, Session, or Meeting, and to issue such summons or other process as may be requisite for the attendance of witnesses, and to adjourn from time to time, as occasion may require; and such examination or examinations shall be then and there openly and publicly taken, *viva voce*, in the said Court, Session, or Meeting, upon questions put by any such prosecutor or prosecutors, defendant or defendants, or any agent or agents, person or persons on behalf of the said Attorney General or other prosecutor or prosecutors, and defendant or defendants respectively, if any such shall attend for that purpose, and by the Court, person or persons to whom such writ shall be directed and sent as aforesaid, upon the respective oaths of witnesses, and the oaths of skilful interpreters, if necessary, administered according to the forms of their several Religions, and shall, by some Officer or person sworn for that purpose, be reduced into writing on parchment or paper; and in case any duplicate or duplicates shall be required by or on behalf of the prosecutor, or the defendant or defendants respectively, into two or more writings on parchment or paper, as the case may require; and such examination or examinations shall be sent to his Majesty in his Court of King's Bench, closed up, and under the seal or seals of the person or persons before whom such examination or examinations as aforesaid shall have been taken; and the person or persons taking such examination or examinations as aforesaid shall deliver the same to any person or persons appointed by the said Court of King's Bench to receive the same, or shall transmit the same in such manner as the said Court of King's Bench shall direct; and all such examinations shall, with all convenient speed, be delivered to one of the Clerks in Court of his Majesty's Court of King's Bench, in the Crown Office of the said Court, for the safe custody thereof; and

the Court of
K. B. and ad-
mitted on the
trial, &c.

every Clerk in the said Court of King's Bench, to whom any examination or examinations shall be delivered, is hereby authorized to administer an oath to the person delivering the same to him, in such form as the said Court of King's Bench shall direct; and such examination or examinations shall be allowed and read upon the Trial of any such Indictment or Information, or any other subsequent proceeding thereon or relating thereto, and shall be deemed as good and competent evidence as if the witness or witnesses, whose examination or examinations shall be so read, had been present, and sworn, and examined, *viva voce*, at such Trial, any Law or Usage to the contrary notwithstanding, saving all just exceptions to be taken to any such examination or examinations, or any part thereof, when the same shall be offered to be read as aforesaid; and all persons concerned shall be entitled to take copies of such examinations in the custody of such Clerk in Court, at their own costs and charges. s. 2.

Court of K. B. may order an examination *de bene esse*, in cases where *viva voce* evidence cannot be had.

It shall also be lawful for the said Court of King's Bench, upon motion to be made and such notice thereof as aforesaid, by or on behalf of his Majesty's Attorney General, or other prosecutor, or defendant or defendants in any such Indictment or Information, to order an examination *de bene esse* of witnesses upon interrogatories, in any case where the *viva voce* testimony of such witnesses cannot conveniently be had, to be taken before an Examiner to be appointed by the said Court, and the depositions taken upon such interrogatories shall be afterwards admitted to be read in evidence upon the Trial of such Indictment or Information, or in any other subsequent proceeding thereon or relating thereto, and shall be deemed good and sufficient evidence in the Law, saving all just exceptions to be taken to such depositions when the same shall be offered to be read as aforesaid. s. 3.

Persons to whom such writs of *mandamus* shall be directed, shall do all things necessary for the due execution thereof, by compelling the appearance and giving evidence of witnesses, &c.

It shall be lawful for any person or persons to whom any such writ or writs of *Mandamus* shall be directed, or order sent as aforesaid; and in case the same shall be directed or sent to more than one person, for so many of them as shall for that purpose be appointed by the said writ, or required by the said order, and who shall act in the execution thereof; and such person and persons is and are hereby respectively authorized and required to administer all oaths required to be taken under any of the provisions of this act, or necessary for the due execution of any such writ or order, or any act, matter, or thing relating thereto, and to examine upon oath all persons whom

he or they find occasion to summon, and all other persons whom he or they shall think fit to examine, touching all matters and things necessary for the due execution of any such writ or order as aforesaid; and such person and persons respectively, to whom such writ shall be directed, or order sent as aforesaid, or so many of them as shall in that behalf be appointed, and shall act in the execution thereof as aforesaid, shall have full power and authority to compel the appearance and giving evidence of any witness upon any such writ or order, and to issue special summons or other process for that purpose, and may proceed upon such summons or other process by imprisonment of the body of any person refusing to appear or give evidence, in like manner as any Court or Courts of Record within this Kingdom, having competent authority for that purpose, may proceed against any person or persons for any contempt committed against the authority of any such Court. s. 4.

In case any person or persons in the course of his, her, or their examination upon oath, under and by virtue of the said recited act of the twenty-fourth year of his present Majesty, or this act, shall wilfully and corruptly give false evidence, such person or persons so offending, and being thereof duly convicted, shall be, and is and are hereby declared to be subject and liable to such pains and penalties, as persons guilty of wilful and corrupt Perjury shall be liable to by any law or laws then in force in the Kingdom, Island, or place where such false evidence shall have been given as aforesaid. s. 5.

Persons giving false evidence shall be subject to the pains inflicted for Perjury.

Commissions of the Peace.

In every Commission of the Peace through the Realm, where need shall be, two men of Law of the same County where such Commission shall be made, shall be assigned to go and proceed to the deliverance of Thieves and Felons as often as they shall think it expedient. 17 R. 2. c. 10.

Two Men of Law shall be put into Commissions of the Peace.

Conies.

(And see Title GAME.)

Reciting that since the making of the Statute 5 Eliz. c. 21., grounds had been inclosed and kept for the preservation of Deer and Conies, and that sufficient provision did not exist for punishment of persons hunting or killing Deer or Conies in such grounds since the said Statute inclosed, or any former ground which since the said Statute had been in any part altered; it is enacted, that if any person shall in the night time, or by day,

The penalty for breaking inclosed park or other grounds, and taking or hunting Conies.

wrongfully or unlawfully break or enter into any Park impaled, or any other several grounds inclosed with wall, pale or hedge, and used or kept for the keeping, breeding, and cherishing of any Deer (1) or Conies, and wrongfully or unlawfully shall hunt, drive, or chase out, or take, kill, or slay any Deer or Conies within any such impaled park or closed ground with pale, wall, or other inclosure as aforesaid, against the will, mind, or pleasure of the owners, occupiers, or possessioners of the same, not having lawful title or authority so to do, and thereof shall be lawfully convicted at the suit of the King or the party grieved, shall suffer imprisonment of his or their Bodies by the space of three months, and also shall yield and pay to the party grieved his treble damages (2) and costs, to be assessed and rated by the Justices before whom he shall be convicted, after the said three months expired, and shall find sureties for his good abearing for seven years after, or else shall remain in prison without bail or mainprize until he shall find such sureties, during the said space of seven years. 3 Jac. 1. c. 13. s. 2.

Who shall hear and determine offences.

The Justices of Oyer and Terminer, Justices of Assize in their Circuits, and Justices of Peace and Gaol Delivery in their Sessions, shall enquire, hear, and determine offences, by examination of the offenders, as well upon Indictment taken before them as by Bill of Complaint, Information, or other action. s. 3.

This act was continued by 3 Car. 1. c. 4. and appears to be still in force by the wording of the Statute 21 Car. 1. c. 4.

The party grieved may recover treble damages, and thereupon may discharge the suretyship.

The party grieved may take his further remedy against offenders, and recover treble damages before such Justices, or elsewhere in the Courts of Record at Westminster, and upon such satisfaction being made, or the acknowledgment thereof by the offender before the Justices in open Sessions for the County where the offence was committed, it shall be at the liberty of the party grieved to release at his pleasure the suretyship of good behaviour at any time within the seven years or before. s. 4.

This act shall not extend to any Park or inclosed Ground to be inclosed or used for Deer or Conies after the making of the act, without licence or grant from the King. s. 7.

Penalty for chasing or killing Conies in warrens not inclosed.

If any person or persons shall at any time enter wrongfully into any Warren or Ground, lawfully used or kept for the breeding or keeping of Conies (although the same be not inclosed) and there shall chase, take, or kill any Conies against

(1) This act is repealed as to Deer by 7 Jac. 1. c. 13. And see further Title GAME.

(2) As relates to Deer, these damages are by 7 Jac. 1. c. 13. to be rated at £10.

the will of the owner or occupier thereof, not having lawful title or authority so to do, and shall be thereof lawfully convicted in manner hereafter following (1), the parties so offending shall yield treble damages to the party grieved, and be imprisoned for three months, and after till they find sureties for their good abearing. 22, 23 Car. 2. c. 25. s. 4.

The statute 5 G. 3. c. 14. recites, that there are many thousand acres of land in this Kingdom, altogether unfit for cultivation, and yet the same are capable of rendering great profit by the breeding and maintaining Conies, as well to the owners of such lands as to a multitude of industrious manufacturers, who gain their livelihood by working up Coney wool; and that a great part of the said land is already used as Warrens in the breeding and maintaining Conies, but because disorderly persons, neglecting their own lawful trades, have betaken themselves to the taking, killing, and stealing of Conies in the night-time, whereby the owners and occupiers of such Warrens are greatly discouraged, and many such owners and occupiers have been induced to destroy such Warrens, and others have been deterred from stocking other lands, to the great prejudice of the manufactures of this Kingdom; and that the provisions already subsisting have, by experience, been found insufficient for the effectual preservation of Conies in Warrens; and then for remedy thereof enacts (s. 6.) that if any person or persons shall, from and after 1 June 1765 wilfully and wrongfully in the night-time enter into any Warren or Grounds lawfully used or kept for the breeding or keeping of Conies, although the same be not inclosed, and shall then and there wilfully and wrongfully take or kill in the night-time any Coney or Conies, against the will of the owner or occupier thereof, or shall be aiding and assisting therein, and shall be convicted of the same before any of his Majesty's Justices of Oyer and Terminer, or General Gaol Delivery for the County where such offence or offences shall be committed, every such person and persons so offending, and being thereof lawfully convicted in manner aforesaid, shall and may be Transported for the space of Seven Years, or suffer such other lesser Punishment by Whipping, Fine, or Imprisonment as the Court before whom such person or persons shall be tried, shall in their discretion award and direct.

Persons convicted of entering warrens, &c. in the night, and taking or killing, &c. Conies therein,

and their aiders,

may be transported, &c.

Provided that no person who shall be convicted of any offence against this act shall be liable to be convicted for any such offence under any former act or acts, law or laws now in force. s. 7.

(1) In a summary way before one Justice, see s. 7. of the act.

Not to extend
to destroying
Conies on the
sea banks, &c.
of Lincoln in
the day time.

And whereas great mischief and damage has been and still may be occasioned by the increase of Conies upon the Sea and River Banks in the County of Lincoln, or upon the land or ground within a certain distance from the said banks; for remedy thereof, be it enacted, that nothing in this act contained shall extend or be construed to extend to prevent any person or persons from killing and destroying, or from taking and carrying away in the day time any Conies that shall be found on any Sea or River Banks erected or to be erected for the preservation of the adjoining lands from being overflowed by the sea or river waters, so far as the Flux and Reflux of the Tide does or shall extend, or upon any land or ground within one Furlong distance of such sea or river banks, so far as the flux and reflux of the tide does or shall extend, or upon any land or ground within one furlong distance of such sea or river banks; but that it shall and may be lawful to and for any person or persons to enter upon any such banks, land, or ground as aforesaid within the said County of Lincoln, and to kill, destroy, take, and carry away in the day time to his or their own use any Conies so found upon any such banks, land, or ground as aforesaid, within the said County, he or they doing as little damage as may be to the owner or tenant of such banks, land, or ground; any thing in this or any other act contained to the contrary notwithstanding. 5 G. 3. c. 14. s. 8.

Provided also, that no person or persons shall be obliged to make satisfaction for any damages that may be occasioned by such entry, unless such damages shall exceed the sum of One Shilling. s. 9.

Conspiracy.

(And see Titles CHAMPERTY, MAINTENANCE.)

The definition
of conspirators.

Conspirators be they that do confeder or bind themselves by Oath, Covenant, or other Alliance, that every of them shall aid and bear the other falsely and maliciously to indite or cause to indite, or falsely to move or maintain Pleas; and also such as cause children within age to Appeal men of Felony, whereby they are imprisoned and sore grieved; and such as retain men in the Country with Liveries or Fees, to maintain their malicious Enterprises; and this extendeth as well to the takers as to the givers. And Stewards and Bailiffs of great Lords which by their Seignory, Office, or Power undertake to bear or maintain Quarrels, Pleas, or Debates that concern other parties, than such as touch the

estate of their Lords or themselves. This Ordinance and final definition of Conspirators was made and accorded by the King and his Council in his Parliament, the thirty-third year of his reign. And it was further ordained that Justices assigned to the hearing and determining of Felonies and Trespasses, should have the Transcript hereof. 33 Ed. 1. st. 2.

Convicts.

By the Statute 32 G. 3. c. 45. s. 4. it is enacted, that any of his Majesty's Judges at the Assizes, and the Justices at the General or Quarter Sessions, or any Justice of the Peace, is and are hereby empowered to order, whenever he or they shall think proper, any Convict, upon his Discharge from Prison, to be conveyed by Pass under hand and seal, in manner and form directed by the aforesaid act [17 G. 2. c. 5.] and according to the provisions therein contained; and the Judge, Justices, or Justice aforesaid, is or are also empowered to convey by Pass any person who shall be Acquitted at the Assises or General or Quarter Sessions, or Discharged by Proclamation or otherwise, who shall of himself or herself, or by any other person in his or her behalf, apply to the Court whereat he or she has been acquitted or discharged, or to any Justice of the Peace to be conveyed as aforesaid; and the Judge, Justices or Justice aforesaid, shall certify in such Pass, that the person so conveyed was discharged from prison, or a person acquitted or otherwise discharged at the Assises or Sessions, as the case may be, and such Convict or person acquitted or discharged shall pay no fee whatever for such Pass.

Judges or Justices, &c. may order Convicts, upon being discharged, or persons acquitted, &c. at the Assises, &c. to be conveyed by a pass, as under 17 G. 2. c. 5.

Corn, Grain, and Flour.

The Statute 11 G. 2. c. 22. intituled "An Act for punishing such persons as shall do injuries and violences to the persons or properties of his Majesty's subjects, with intent to hinder the Exportation of Corn," recites, that "many disorderly and evil-minded persons have of late frequently themselves in great numbers, committed great violences, and done many injuries to the persons and properties of his Majesty's subjects, with intent to hinder the Exportation of Corn, whereby many of his Majesty's subjects have been deterred from buying of Corn and Grain, and following their lawful business therein, to their great loss and damage, as well as the great damage and prejudice of the

Persons using
any violence to
hinder the sale
or transit of
Corn, &c. ;

shall be guilty
of a misde-
meanor and be
imprisoned and
whipped.

Committing like
offences a second
time, or destroy-
ing granaries, &c.
of Corn, or the
Corn therein,

Farmers and Landholders of this Kingdom," and then "for the better preventing such wicked and disorderly practices, and more easily and effectually bringing such offenders to condign punishment," the statute enacts, that if any person or persons shall, from and after 24 June 1738, wilfully and maliciously beat, wound, or use any other violence to or upon any person or persons, with intent to deter or hinder him or them from *buving* of Corn or Grain in any Market or other place within this Kingdom, or shall unlawfully stop or seize upon any waggon, cart, or other carriage, or horse loaded with Wheat, Flour, Meal, Malt, or other Grain, in or on the way to or from any city, market town, or sea port of this Kingdom, and wilfully and maliciously break, cut, separate, or destroy the same, or any part thereof, or the harness of the horses drawing the same; or shall unlawfully take off, drive away, kill, or wound any of such horses, or unlawfully beat or wound the driver or drivers of such waggon, cart, or other carriage, or horse so loaded, in order to stop the same, or shall by cutting off the sacks or otherwise, scatter or throw abroad such Wheat, Flour, Meal, Malt, or other Grain, or shall, take or carry away, spoil, or damage the same, or any part thereof; every and all such person and persons, being thereof lawfully convicted before any two or more Justices of the Peace of the county, shire, stewartry, riding, division, town or place corporate, wherein such offence or offences shall be committed, or before the Justices of the Peace in open Sessions (who are hereby authorized and empowered summarily and finally to hear and determine the same) shall be sent to the Common Gaol or to the House of Correction, there to continue and be kept to hard labour for any time not exceeding the space of three months, nor less than one month, and shall by the same Justices be also ordered to be once publicly and openly whipped by the master or keeper of such Gaol or House of Correction in such city, market town, or sea port in or near to which such offence shall be committed, on the first convenient market day, at the Market Cross or Market Place there, between the hours of eleven and two of the Clock. s. 1.

If any such person or persons so convicted shall commit any of the offences aforesaid a second time; or if from and after the said 24th June 1738, any person or persons shall wilfully and maliciously pull, throw down, or otherwise destroy any Storehouse or Granary, or other place where Corn shall be then kept in order to be exported; or shall unlawfully enter any such Storehouse, Granary, or other place, and take

and carry away any Corn, Flour, Meal, or Grain therefrom, or shall throw abroad or spoil the same, or any part thereof, or shall unlawfully enter on board any ship, barge, boat, or vessel, and shall wilfully and maliciously take and carry away, cast, or throw out therefrom, or otherwise spoil or damage any Meal, Flour, Wheat, or Grain therein, intended for Exportation; every person so offending, and being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall be transported for the space of seven years, in like manner as other felons are directed to be transported by the laws and statutes of this Realm; and if any such offender so transported shall return into this Kingdom before the expiration of the said seven years, he or she shall suffer Death as a Felon, without Benefit of Clergy. s. 2.

or on board vessels, &c.;

Felony.

Provided always, that no attainder for any offence made Felony by virtue of this act, shall make or work any corruption of blood, loss of dower, or disinherittance of heir or heirs. s. 3.

Saving of dower and blood.

Provided also, that no person who shall be punished for any offence by virtue of this act, shall be punished for the same offence by virtue of any other law or statute whatsoever. s. 4.

Offences not to be twice punished.

From and after the said 24th June 1738, the Inhabitants of every Hundred in that part of Great Britain called England, wherein any such offence as aforesaid shall be committed, shall make satisfaction and amends to all and every the person and persons, their Executors and Administrators, for the Damages they shall have sustained or suffered by any injury or violence done to their properties by any offender or offenders against this act; and every person and persons who shall sustain Damages in their properties by any of the said offences shall and are hereby enabled to sue for and recover such his or their Damages (the sum to be recovered not exceeding £100) against the said Hundred, who by this act shall be made liable to answer all or any part thereof; such Damages to be sued for, levied, and raised in such manner and form, and by and under the like methods and directions as are prescribed and mentioned in the cases of Actions for Robberies on the Highway, in and by 27 Eliz. c. 13. and 8 G. 2. c. 16. except so much thereof as relates to giving, leaving, or publishing notice, or making fresh suit and hue and cry, or any other matter otherwise provided for by this act. s. 5.

Hundreds, &c. shall make satisfaction (not exceeding £100) for damages done.

Provided, that no person or persons shall be enabled to recover any Damages by virtue of this act, unless he or they, by

Notice to be given to a Constable, &c. of

offences committed.

And examination of prosecutor or his servant on oath shall be taken.

If one offender convicted, the hundred shall be exonerated.

Limitation of actions against the hundred.

themselves or by their servants, within two days after such Damage or Injury done him or them by any such offender or offenders as aforesaid, shall give notice of such offence done and committed, to one of the Constables of the Hundred, or to the Constable, Borsholder, Headborough, or Tithingman of the Town, Parish, Village, Hamlet, or Tithing, in or near which such fact shall be committed, and shall, within ten days after such notice, give in his or their examinations upon oath, or the examination upon oath of his or their servants, being present at the time of the fact being committed, or having the care of such his or their properties, to which such Damage or Injury shall be done, before any Justice of the Peace of the County, Liberty, or Division where such fact shall be committed, whether he or they do know the person or persons that committed such fact, or any of them; and if upon such examination it be confessed that he or they do know the person or persons that committed the said fact, or any of them, that then he or they so confessing shall be bound by recognizance to prosecute such offender or offenders according to this act, or otherwise, according to the Laws of this Realm. s. 6.

Provided also, that where any offence shall be committed against this act, and any one of the said offenders shall be apprehended and lawfully convicted of such offence, within the space of twelve months after the offence committed, no Hundred, or Franchise therein, shall in anywise be subject or liable to make any satisfaction to the party or parties injured for the Damages he or they shall have sustained; any thing in this act contained to the contrary notwithstanding. s. 7.

Provided also, that no person who shall sustain any Damage by reason of any offence to be committed by any offender contrary to this act shall be enabled hereby to sue or bring any action against any Hundred where such offence shall be committed, till after the expiration of one year, nor unless the party or parties sustaining such Damage shall commence his, her, or their action or suit within two years next after the offence shall be committed. s. 8.

The statute 36 G. 3. c. 9. intituled "an act to prevent Obstructions to the free passage of Grain within the Kingdom," recites, that divers persons have assembled themselves in great numbers, and committed great violences, with intent to hinder the passage of Corn and Grain from place to place, whereby the necessary circulation of Corn and Grain within the Kingdom may be prevented; and then enacts, that if any person or

persons shall, from and after the passing of this act, wilfully and maliciously beat, wound, or use any other violence to or upon any person or persons, with intent to deter or hinder him or them from buying of Corn or Grain in any Market, or other place within this Kingdom, or shall unlawfully stop or seize any Wheat, Flour, Meal, Malt, or other Grain, in or on the way to or from any City, Market Town, or place in this Kingdom, or shall wilfully and maliciously break, cut, or destroy any waggon, cart, or other carriage, wherein any such Wheat, Flour, Meal, Malt, or other Grain, shall be loaded, or the harness of any horse or horses, drawing or carrying the same, or shall unlawfully take off from any such carriage, or drive away, kill, or wound any such horse or horses, or unlawfully beat or wound the driver or drivers of any such waggon, cart, or other carriage, or horse, so loaded, with intent to stop such Wheat, Flour, Meal, Malt, or other Grain, or shall, by cutting of the sacks, or otherwise, scatter or throw abroad any such Wheat, Flour, Meal, Malt, or other Grain, or shall take or carry away, destroy, spoil, or damage the same, or any part thereof, every and all such person or persons, being thereof lawfully convicted before any two or more Justices of the Peace of the County, Shire, Stewartry, Riding, Division, Town, or Place Corporate, wherein such offence or offences shall be committed, or before the Justices of the Peace in open Sessions (who are hereby authorized and empowered summarily and finally to hear and determine the same), shall be sent to the common Gaol or House of Correction, there to continue and be kept to hard labour for any time not exceeding the space of three months, nor less than one month. s. 1.

Persons maliciously using violence in order to hinder the buying of Corn, or seizing Corn, Flour, &c. on its passage, or breaking carriages or horses, or their harness, or drawing same, or driving away horses, or wounding, &c. drivers with intent to stop the passage of such articles, or throwing abroad such Corn, &c. shall for first offence be guilty of a misdemeanor.

If any such person or persons so convicted shall commit any of the offences aforesaid a second time, or if, from and after the passing of this act, any person or persons, with intent to prevent or hinder any Corn, Meal, Flour, Malt, or Grain from being lawfully carried or removed from any place whatsoever, shall wilfully and maliciously pull, throw down, or otherwise destroy any Storehouse or Granary, or other place in which Corn, Meal, Flour, Malt, or Grain shall be then kept, or shall unlawfully enter any such Storehouse, Granary, or other place, and take and carry away any Corn, Flour, Meal, Malt, or Grain therefrom, or shall throw abroad or spoil the same, or any part thereof, or shall unlawfully enter on board any ship, barge, boat, or vessel, and wilfully and maliciously take and carry away, cast or throw out therefrom, or otherwise spoil or

Persons convicted of such offences a second time, or destroying storehouses, or carrying Corn therefrom, &c. declared guilty of Felony.

Offenders returning from transportation ousted of clergy.

The hundred where any such offence is committed may be sued for damages not exceeding £100.

damage any Corn, Flour, Meal, Malt, or Grain therein, every person so offending, and being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall be transported for the space of seven years, in like manner as other felons are directed to be transported by the Laws and Statutes of this Realm; and if any such offender, so transported, shall return into this Kingdom before the expiration of the said seven years, he or she shall suffer Death as a Felon, without Benefit of Clergy: Provided always, that no attainder for any offence made Felony by virtue of this act shall make or work any corruption of blood, loss of dower, or disinherittance of heir or heirs. s. 2.

From and after the passing of this act, the Inhabitants of every Hundred, in that part of Great Britain called England, wherein any such offence as aforesaid shall be committed, shall make full satisfaction and amends to all and every the person and persons, their Executors and Administrators, for the Damage they shall have sustained or suffered by any injury or violence done to their properties by any offender or offenders against this act; and that every person and persons who shall sustain Damages in their properties by any of the said offences, shall and are hereby enabled to sue for and recover such his or their Damages (the sum to be recovered not exceeding £100) against the said Hundred, who by this act shall be made liable to answer all or any part thereof; such Damages to be sued for, levied, and raised in such manner and form, and by and under the like methods and directions, as are prescribed and mentioned in cases of Actions of Robberies on the Highway, in and by 27 Eliz. c. 13. and 8 G. 2. c. 16., except so much thereof as relates to giving, leaving, or publishing notice, or making fresh suit and hue and cry, or any other matter otherwise provided for by this act. s. 3.

No person to recover such damages, unless notice be given of the offence, &c. and Recognizance entered into, to prosecute known offenders.

Provided nevertheless, that no person or persons shall be enabled to recover any Damages by virtue of this act, unless he or they, by themselves or by their servants, within two days after such Damage or Injury done him or them, by any such offender or offenders as aforesaid, shall give notice of such offence done and committed to one of the Constables of the Hundred, or to the Constable, Borsholder, Headborough, or Tithingman of the Town, Parish, Village, Hamlet, or Tithing, in or near which such fact shall be committed, and shall, within ten days after such notice, give in his or their examinations upon oath, or the examination of his or their servants, being present at the time of the fact being committed, or having the care of such

his or their properties to which such Damage or Injury shall be done, before any Justice of the Peace of the County, Liberty, or Division where such fact shall be committed, whether he or they do know the person or persons that committed such fact, or any of them; and if upon such Examination it be confessed that he or they do know [that (1)] the person or persons that committed the said fact, or any of them, that then he or they so confessing shall be bound by recognizance to prosecute such offender or offenders according to this act, or otherwise according to the Laws of the Realm. s. 4.

Provided also, that where any offence shall be committed against this act, and any one of the said offenders shall be apprehended, and lawfully convicted of such offence, within the space of twelve months after the offence committed, no Hundred or Franchise therein shall in anywise be subject or liable to make any satisfaction to the party or parties injured for the Damages he or they shall have sustained; any thing in this act contained to the contrary notwithstanding: Provided also, that no person who shall sustain any Damage by reason of any offence to be committed by any offender contrary to this act, shall be enabled hereby to sue or bring any action against any Hundred where such offence shall be committed till after the expiration of one year, nor unless the party or parties sustaining such Damage shall commence his, her, or their action or suit, within two years next after the offence committed. s. 5.

If any offender be convicted within a year after the offence, the hundred not liable to make satisfaction for damages.

No action for damages to be brought till after a year, nor unless commenced within two years after the offence.

Provided always, that nothing in this act contained shall be deemed or taken to abridge or take away any provision already made by the Law of this Realm, or any part thereof, for the suppression or punishment of any offence whatsoever mentioned or described in this act: Provided also, that no person who shall be punished by virtue of this act, shall be punished for the same offence by virtue of any other law or statute whatsoever. s. 6.

Act not to abridge any law for the punishment or suppression of offences herein mentioned.

No person shall be twice punished.

Cornwall.

Whereas the Justices of Assise, of Nisi Prius, Oyer and Terminer, and General Gaol Delivery for the County of Cornwall, have for many years past constantly held and kept the Assises for the said County at Launceston in the said County, which constant holding has been oftentimes found inconvenient; for

The Assises for Cornwall may be held at any place in that County.

(1) This word appears to be unnecessary, but it is inserted in the printed sessional publication of the Statutes.

remedy whereof, be it enacted, that from and after the 20th May 1716, the holding of the Assises and General Gaol Delivery for the said County shall not be confined to the said Town of Launceston, but that it shall and may be lawful to and for the Lord High Chancellor, or Lord Keeper of the Great Seal of Great Britain for the time being, with the advice of the Justices of Assise, from time to time to appoint a convenient place within the said County of Cornwall for the holding and executing all and every Commission and Commissions of Assise and Nisi Prius, Oyer and Terminer, and General Gaol Delivery for the said County, in such manner as he is by law authorized to do for any other County within that part of the Kingdom of Great Britain called England; any Law, Statute, Custom, or other matter or thing to the contrary in anywise notwithstanding. 1 G. 1. st. 2. c. 45.

Coroner.

- § 1. *Election and Qualification of Coroners regulated by Statutes 28 Ed. 3. c. 6. 3 Ed. 1. c. 10. and 58 G. 3. c. 95.*
- § 2. *Their Jurisdiction, Duty and Fees, as defined by Statutes 4 Ed. 1. st. 2., 28 Ed. 1. st. 3. c. 3., 3 H. 7. c. 1., 1 H. 8. c. 7., 1, 2 P. & M. c. 13. s. 5, 6., 25 G. 2. c. 29.*
- § 3. *The Punishment of a Coroner convicted of Corruptly Concealing or not Attaching Felons, and of Extortion, Neglect of Duty, or other Misdemeanor in his Office.*
- § 4. *The Office and Duty of the Coroner of the King's Household under the Statute 33 H. 8. c. 12.*

§ 1.

How Coroners shall be chosen.

It is Ordained and Accorded, that all Coroners of the Counties shall be chosen in the full Counties by the Commons of the same Counties, of the most meet and most lawful People that shall be found in the said Counties to execute the said office; saved always to the King and other Lords, which ought to make such Coroners, their Seigniories and Franchises. 28 Ed. 3. c. 6.

Coroners shall be chosen of the most wise and discreet knights.

Forasmuch as mean persons and undiscreet now of late are commonly chosen to the office of Coroners, where it is requisite that persons honest, lawful, and wise should occupy such offices: it is Provided, that through all Shires sufficient men shall be chosen to be Coroners, of the most wise and discreet Knights, which know, will, and may best attend upon such offices, and which lawfully shall attach and present Pleas to the Crown; and that Sheriffs shall have Counter-Rolls with

the Coroners, as well of Appeals as of Enquests, of Attachments, or of other things which to that office belong; and that no Coroner demand nor take any thing of any man to do his office, upon pain of great forfeiture to the King. 3 Ed. 1. c. 10.

The statute 58 G. 3. c. 95. "to regulate the Election of Coroners for Counties," recites, that there are no sufficient Regulations for the Election of Coroners for Counties, and enacts, that from and after the passing of this act, upon every Election to be made of any Coroner or Coroners of any County in England and Wales, the Sheriff of the County where such Election shall be made shall hold his County Court for the same Election at the most usual place or places of Election of Coroners within the said County, and where the same have most usually been held for forty years last past, and shall there proceed to Election at the next County Court, unless the same fall out to be held within six days after the receipt of the writ *de Coronatore eligendo*, or upon the same day, and then shall adjourn the same Court to some convenient day, not exceeding fourteen days, giving ten days notice of the time and place of Election; and in case the said Election be not determined upon the view, with the consent of the Freeholders there present, but that a Poll shall be demanded for determination thereof, then the said Sheriff, or in his absence his Under Sheriff, with such others as shall be deputed by him, shall forthwith there proceed to take the said Poll, in some public place, by the same Sheriff, or his Under Sheriff as aforesaid in his absence, or others appointed for the taking thereof as aforesaid; and every such Poll shall commence on the day upon which the same shall be demanded, and be duly and regularly proceeded in from day to day (Sunday excepted) until the same be finished; but so as that no Poll for such Election shall continue more than ten days at most (Sunday excepted), and the said Poll shall be kept open seven hours at the least each day, between the hours of nine in the morning and five at night; and for the more due and orderly proceeding in the said Poll, the said Sheriff, or in his absence, his Under Sheriff, or such as he shall depute, shall appoint such number of Clerks as to him shall seem meet or convenient for the taking thereof; which Clerks shall all take the said Poll in the presence of the said Sheriff or his Under Sheriff, or such as he shall depute; and before they begin to take the said Poll, every Clerk so appointed shall by the said Sheriff or his Under Sheriff, or such as he shall depute as aforesaid, be sworn truly and indifferently to take the same Poll; and

Sheriff to hold his County Court for the election of Coroner at the usual place of election;

and if election not determined on view, then to proceed to take a poll.

Commencement and duration of poll.

Poll Clerks to be appointed and sworn.

Inspector of Poll
Clerk to be ap-
pointed.

Freeholder, if
required, to be
sworn before he
polls.

The oath of
qualification.

Punishment
against perjury,
or subornation
of perjury.

Mortgagor and
cestuique trust
in possession to
vote.

to set down the names of each Freeholder, and the place of his abode and Freehold, and the name of the occupier thereof, and for whom he shall poll, and to poll no Freeholder who is not sworn, if required to be sworn by the Candidates or either of them, and which oaths of the said Clerks the said Sheriff or his Under Sheriff, or such as he shall depute, are hereby empowered to administer; and the Sheriff, or in his absence his Under Sheriff as aforesaid, shall appoint for each Candidate such one person as shall be nominated to him by each Candidate, to be Inspector of every Clerk who shall be appointed for taking the Poll; and every Freeholder, before he is admitted to poll at the same Election, shall, if required by the Candidates, or any of them, first take the oath herein-after mentioned, which oath the said Sheriff by himself or his Under Sheriff, or such sworn Clerk by him appointed for taking the said Poll as aforesaid, is hereby authorized to administer; videlicet,

“ You swear [*or, being one of the people called Quakers, you solemnly affirm*] that you are a Freeholder of the County of _____ and have a freehold estate, consisting of _____ lying at _____

within the said County; and that such freehold estate has not been granted to you fraudulently, on purpose to qualify you to give your vote at this Election; and that the place of your abode is at _____

[*and if it be a place consisting of more streets or places than one, specifying what street or place*]; that you are twenty-one years of age, as you believe, and that you have not been before polled at this election.”

And in case any Freeholder or other person taking the said oath or affirmation hereby appointed to be taken by him as aforesaid shall thereby commit wilful and corrupt perjury, and be thereof convicted, and if any person shall unlawfully or corruptly procure or suborn any Freeholder or other person to take the said oath or affirmation in order to be polled, whereby he shall commit such wilful and corrupt perjury, and shall be thereof convicted, he and they for every such offence shall incur such pains and penalties as are declared in and by two acts of Parliament [5 Eliz. c. 9. and 2 G. 2. c. 25.], and by any other Law or Statute now in force for the punishment of Perjury or Subornation of Perjury. s. 1.

No person or persons shall be allowed to have any vote at such Elections for Coroner or Coroners of any County in England and Wales as aforesaid, for or by reason of any trust estate or mortgage, unless such Trustee or Mortgagee be in

actual possession or receipt of the rents and profits of such estate; but that the Mortgagor or Cestuique Trust in possession shall and may vote for the same estate, notwithstanding such mortgage or trust; and that all Conveyances of any messuages, lands, tenements, and hereditaments, in order to multiply voices, or to split or divide the interest in any houses or lands among several persons, to enable them to vote at Elections for a Coroner of any County as aforesaid, are hereby declared to be void and of none effect. s. 2.

All the reasonable costs, charges, and expences the said Sheriff or his Under Sheriff or other Deputy shall expend or be liable to in and about the providing of poll books, booths, and Clerks (such Clerks to be paid not exceeding one pound and one shilling each per diem) for the purpose of taking the Poll at any such Election, shall be borne, sustained, and paid by the several Candidates at such Election, in equal proportions. s. 3.

Expences of
Sheriff and Poll
Clerks to be
paid by the
Candidates.

A Coroner of our Lord the King ought to enquire of these things; first, when Coroners are commanded by the King's Bailiffs, or by honest men of the country, they shall go to the places where any be Slain, or suddenly dead or wounded, or where houses are broken, or where Treasure is said to be found, and shall forthwith command four of the next towns, or five, or six, to appear before him in such a place; and when they come thither, the Coroner, upon the oath of them, shall enquire in this manner, that is to wit; If it concerns a man Slain, whether they know when the person was slain, whether it were in any house, field, bed, tavern, or company, and if any, and who, were there: likewise it is to be inquired who were, and in what manner culpable, either of the act or of the force, and who were present, either man or woman, and of what age soever they be, (if they can speak, or have any discretion), and how many soever be found culpable by Inquisition in any of the manners aforesaid, they shall be taken and delivered to the Sheriff, and shall be committed to the Gaol; and such as be founden, and be not culpable, shall be attached until the coming of the Justices, and their names shall be written in the Rolls of the Coroners. If it fortune any such man be slain in the fields or woods, and be there found, first it is to be inquired, whether he were slain there or not; and if he were brought and laid there, they shall do so much as they can to follow their steps that brought the body thither, or of the horse which brought him, or cart, if perchance he was brought upon a horse or cart. It shall be inquired also if the dead person were

§ 2.
What Coroners
shall inquire of.

known, or else a stranger, and where he lay the night before; and if there be any who are said to be guilty of the Murder, the Coroner shall immediately go unto their house, and shall inquire what goods they have; and what corn they have in their Graunge, and if they be freemen, they shall inquire how much land they have, and what it is worth yearly; and further, what corn they have upon the ground; and when they have thus inquired upon every thing, they shall cause all the Corn and Goods to be valued, and the land to be Extended, so that they may be sold incontinently, and thereupon they shall be delivered to the whole township, which shall be answerable before the Justices for all; and likewise of his freehold, how much it is worth yearly, over and above the service due to the Lords of the Fee; and the land shall remain in the King's hands until the Lords of the Fee have made fine for it. And immediately upon these things being inquired, the bodies of such persons being dead or slain shall be buried. In like manner it is to be inquired of them that be Drowned or suddenly dead; and after it is to be seen of such bodies whether they were so drowned, or slain, or strangled by the sign of a cord tied streight about their necks, or about any of their members, or upon any other hurt found upon their bodies, whereupon they shall proceed in the form abovesaid; and if they were not slain, then ought the Coroner to attach the finders, and all other in the company. A Coroner also ought to inquire of Treasure that is found, who know the finders, and likewise who is suspected thereof; and that may be well perceived where one liveth riotously, haunting taverns, and hath done so of long time; hereupon he may be attached for this suspicion by four, or six, or more pledges, if they may be found. Further, if any be Appealed of Rape, he must be attached if the Appeal be fresh, and they must see apparent sign of truth, by effusion of blood, or an open cry made; and such shall be attached by four or six pledges, if he may be found; if the appeal were without cry, or without any manifest effusion of blood, two pledges shall be sufficient. Upon Appeal of wounds and such like, especially if the wounds be mortal, the parties appealed shall be taken immediately, and kept until it be known perfectly whether he that is hurt shall recover or not; and if he die, the offenders shall be kept: and if the parties hurt recover health, the offenders shall be attached by four or six pledges after, as the wound is great or small; if it be for a Maim, he shall find more than four pledges; if it be for a small wound, without Maihem, two pledges shall suffice; also all

Bro. Coron. 175.
 Fitz. Coron.
 241. 265. 436.
 446.

Rast. 45.

wounds ought to be viewed, the length, breadth, and deepness, and with what weapons the wound is given, and in what part of the body the wound or hurt is, and how many be culpable, and if there are many wounds, who gave each particular wound; all which things must be inrolled in the Roll of the Coroners. Moreover, if one or more be appealed, the party appealing of the fact shall be taken, and the party appealed of the force shall be attached also, and surely kept in ward, until the parties appealed of the fact be attainted or delivered. Concerning horses, boats, carts, mills, &c. whereby any are slain, that properly are called *Deodands*, they shall be valued and delivered unto the towns as before is said. Concerning Wreck of the Sea, wheresoever it be found, if any lay hands on it, he shall be attached by sufficient pledges, and the price of the wreck shall be valued and delivered to the towns. If any be suspected of the death of any man, being in danger of life, he shall be taken and imprisoned as before is said. In like manner, Huy shall be levied for all Murthers, Burglaries, and for men Slain or in peril to be slain, as otherwise is used in England; and all shall follow the huy and steps as near as can be; and he that doth not, and is convict thereupon, shall be attached to be afore the Justices of the Gaol, &c. 4 Ed. 1. st. 2.

And forasmuch as heretofore many Felonies committed within the Verge have been unpunished, because the Coroners of the Country have not been authorised to enquire of such manner of Felonies done within the Verge, but the Coroner of the King's House, which never continueth in one place, by reason whereof there can be no Trial made in due manner, nor the Felons put in Exigent, nor Outlawed, nor any thing presented in the Circuit, the which hath been to the great damage of the King, and nothing to the good preservation of his peace; it is Ordained, that from henceforth, in cases of the death of men, whereof the Coroner's Office is to make view and Enquest, it shall be commanded to the Coroner of the Country, that he, with the Coroner of the King's House (1), shall do as belongeth to his Office, and inroll it: and that thing that cannot be determined before the Steward where the Felons cannot be attached, or for other like cause, shall be remitted to the Common Law; so that Exigents, Outlawries, and Presentments shall be made thereupon in Eyre by the Coroner of the Country, as well as of other Felonies done out of the Verge; nevertheless, they shall

Coroner of the County shall act with Coroner of the King's Household relating to offences committed within the verge.

(1) But see post, s. 4. of this title, and title PALACES,

not omit by reason hereof to make Attachments freshly upon the Felonies done. 28 Ed. 1. st. 3. c. 3.

The King remembering how Murders and Slaying of his subjects daily do increase in this Land, the occasions whereof be divers, one that men in towns where such murders hap to fall and be done will not attach the murderer, where the Law of the Land is, that if any man be slain in the day, and the Felon not taken, the township where the death or murder is done shall be amerced; and if any man be wounded in peril of death, the party that so wounded should be arrested, and put in surety, till perfect knowledge be had whether he so hurt should live or die; and the Coroner, upon view of the body dead, should inquire of him or them that had done the death or murder of their abettors and consenters, and who were present when the death or murder was done, whether man or woman, and the names of them that were present and so found to inrol and certify; which Law by negligence is disused, and thereby great boldness is given to slayers and murderers; and over that it is used that within the year and a day after any death or murder had or done, the Felony should not be determined at the King's suit, for saving of the parties suit, wherein the party is oftentimes slow and also agreed with, and by the end of the year all is forgotten, which is another cause of murder; and also, he that will sue an Appeal, must sue in proper person, which suit is long and costly, that it makes the party appellant weary to sue: for Reformation of the Premises, the King, by the assent of the Lords Spiritual and Temporal, and the Commons, in this Parliament assembled, and by authority of the same, will, that every Coroner exercise and do his office according to the Law, as is afore rehearsed. 3 H. 7. c. 1.

Coroner shall properly exercise his office.

Coroners shall inquire of escapes of murderers;

and deliver their inquisitions to the Justices of Gaol Delivery, or into the Bench.

And if any person be Slain or Murdered in the day, and the murderer scape untaken, that the Township where the said deed is so done be amerced for the said escape, and that the Coroner have authority to enquire thereof upon the view of the body dead; and that after the Felony found, the Coroners deliver their Inquisitions afore the Justices of the next Gaol Delivery, in the Shire where the Inquisition is taken; the same Justices to proceed against such murderers if they be in the gaol, or else the same Justices to put the same Inquisitions afore the King in his Bench. And forasmuch as Coroners had not nor ought to have any thing by the Law for their office doing, which oft-time hath been the occasion that Coroners have been remiss in doing their office, it is Ordained, that a Coroner have for his fee,

upon every Inquisition taken upon the view of the body slain, xiii s. iv d. of the goods and chattels of him that is the slayer and murderer, if he have any goods; and if he have no goods, then the Coroner have for his said fee, of such amerciaments as shall fortune any Township to be amerced for escape of such murderer as is aforesaid; and if any Coroner be remiss, and make not inquisitions upon the view of the body dead, and certify not according as is afore ordained, that the Coroner, for every default, forfeit to the King an hundred shillings. § H. 7. c. 1.

A Coroner's fee for each inquisition.

The King ordaineth, that upon a request made to a Coroner to come and inquire upon the view of any person slain, drowned, or otherwise dead by *misadventure*, the Coroner diligently shall do his office, upon the view of the body of every such person or persons, without taking any thing therefore, upon pain to every Coroner that will not endeavour himself to do his office as afore is said, or that he taketh any thing for doing of his office upon any person dead by misadventure, for every time, forty shillings. 1 H. 8. c. 7.

Coroners shall not take any fee for an inquisition on a person dead by misadventure;

on pain of 40s.

The Justices of Assises and Justices of Peace within the County where any such default of the Coroners be, shall have authority and power to inquire thereof and determine the same, as well by examination as by presentment. s. 2.

Every Coroner, upon information before him found, whereby any person shall be indicted for murder or manslaughter, or as *accessory* to the same *before* the murder or manslaughter committed, shall put in writing the effect of the evidence given to the Jury before him, being material; and the said Coroner shall have authority by this act to bind all such by Recognizance or obligation as do declare any thing material, to prove the said murder or manslaughter, offences or felonies, or to be accessory to the same as is aforesaid, to appear at the next General Gaol Delivery to be holden within the County, City, or Town Corporate, when the trial thereof shall be, then and there to give evidence against the party so indicted at the time of the Trial; and shall certify as well the same evidence as such bond in writing as he shall take, together with the Inquisition or Indictment before him taken and found, at or before the time of his said trial thereof to be had or made; and in case any Coroner shall offend in any thing contrary to this act, that then the Justices of Gaol Delivery of the Shire, City, Town, or place where such offence shall happen to be committed, upon due proof thereof by examination before them, shall for every such

Coroner shall put into writing the evidence given to the Jury before him in cases of murder, &c. and bind over the witnesses to give evidence upon the trial;

and certify such examination and bond to the next General Gaol Delivery.

On penalty
being fined by
the Justices of
Gaol Delivery.

offence set such fine on every such Coroner as the same Justices of Gaol Delivery shall think meet, and shall estreat the same as other fines assessed before Justices of Gaol Delivery ought to be. 1 & 2 P. & M. c. 13. s. 5.

Duty of Coroners in London and Middlesex in like cases.

Coroners in London and Middlesex, and in other Cities, Boroughs, and Towns Corporate in this Realm and Wales, shall let to bail felons and prisoners as heretofore accustomed, and shall take examinations and bonds as is aforesaid, upon every bailment by them made, and shall certify the same at the next Gaol Delivery to be holden in the Shire, City, Borough, or Town where their jurisdictions extend, upon like pain as before limited. s. 6.

Coroner's fee
on inquisitions
20 s.;

and 9d per mile.

The Statute 25 G. 2. c. 29. s. 1. reciting that the office of Coroner is a very Ancient and necessary office, and further reciting the Statute 3 H. 7. c. 1., and that the fee mentioned in that act, and payable as therein directed, is not an adequate reward for the general execution of the said office; to the intent therefore that Coroners may be encouraged to execute their office with diligence and integrity, it is enacted, that for every Inquisition not taken upon view of a body dying in a Gaol or Prison, which after 24 June 1752 shall be duly taken within that part of Great Britain called England by any Coroner or Coroners in any Township or Place contributory to the rates [directed by an act made 12 G. 2. c. 29.], the sum of Twenty Shillings, and for every mile which he or they shall be compelled to travel from the usual place of his or their abode to take such Inquisition, the further sum of ninepence over and above the said sum of twenty shillings, shall be paid to him or them out of any monies arising from the rates before mentioned, by order of the Justices of the Peace in their General or Quarter Sessions assembled for the County, Riding, Division, or Liberty where such Inquisitions shall have been taken, or the major part of them, which order the said Justices of the Peace so assembled, or the major part of them, are hereby authorized and directed to make, for which order no fee or reward shall be paid to the Clerk of the Peace or any other Officer s. 1.

His fee for inquisition on a body dying in gaol.

For every Inquisition which from and after the said 24 June 1752 shall be duly taken upon the view of a body dying in any Gaol or Prison within that part of Great Britain called England, by any Coroner or Coroners of a County, so much money, not exceeding the sum of twenty shillings, shall be paid to him or them, as the Justices of the Peace at their General or Quarter Sessions assembled for the County, Riding, or Division wherein

such Gaol or Prison is situate, or the major part of them, shall think fit to allow, as a recompence for his or their labour, pains, and charges in taking such inquisition, to be paid in like manner by order of the said Justices, or the major part of them, out of any monies arising from the said rates; which order the said Justices of the Peace so assembled, or the major part of them, are hereby authorized and directed to make, for which order no fee or reward shall be paid to the Clerk of the Peace or any other officer. s. 2.

Provided nevertheless, that over and above the recompence hereby limited and appointed for Inquisitions taken as aforesaid, the Coroner or Coroners who shall take an Inquisition upon the view of a body slain or murdered shall also have the fee of thirteen shillings and fourpence, payable by virtue of the said act made 3 H. 7. (c. 1.) out of the goods and chattels of the slayer or murderer, or out of the amerciaments imposed upon the Township if the slayer and murderer escape; any thing in this act contained to the contrary thereof in anywise notwithstanding. s. 3.

Coroner may also take 13s. 4d. out of a murderer's goods.

Provided also, and be it declared and enacted, that no Coroner to whom any benefit is given by this act shall, by colour of his office, or upon any pretext whatsoever, take for his office doing, in case of the death of any person, any fee or reward other than the said fee of 13s. 4d. limited as is aforesaid by the said act 3 H. 7. c. 1., and other than the recompence hereby limited and appointed, upon pain of being deemed guilty of Extortion. s. 4.

Coroner taking more, guilty of extortion.

No Coroner of the King's Household and of the verge of the King's Palaces, nor any Coroner of the Admiralty, nor any Coroner of the County Palatine of Durham, nor any Coroner of the City of London and Borough of Southwark, or of any Franchises belonging to the said City, nor any Coroner of any City, Borough, Town, Liberty, or Franchise which is not contributory to the rates directed by the said act [12 G. 1. c. 29.] or within which such rates have not been usually assessed, shall be entitled to any fee, recompence or benefit, given to or provided for Coroners by this act; but that it shall and may be lawful for all such Coroners as are last mentioned to have and receive all such fees, salaries, wages, and allowance as they were entitled to by law before the making of this act, or as shall be given or allowed to them by the person or persons by whom they have been or shall be appointed. s. 5.

To what Coroners this act shall not extend.

§ 3.
The punishment
of a Coroner
corruptly con-
cealing or not
attaching Felons.

The Statute 3 Ed. 1. c. 9. provides, that if the Sheriff, Coroner, or any other Bailiff, within Franchises or without, for reward, or for prayer, or for fear, or for any manner of affinity, conceal, consent or procure to conceal, the felonies done in their liberties, or otherwise will not attach nor arrest such felons there as they may do, or otherwise will not do their office for favour born to such misdoers, and be attainted thereof, they shall have a year's imprisonment, and also make a grievous fine at the King's pleasure, if they have wherewith; and if they have not whereof, they shall have imprisonment of three years.

Coroner con-
victed of extor-
tion, neglect, or
other misde-
meanor in his
office shall be
amoved.

If any Coroner who is not appointed by virtue of an Annual Election or Nomination, or whose office of Coroner is not annexed to any other office, shall from and after the said 24 June 1752 be lawfully convicted of Extortion, or wilful Neglect of his Duty, or Misdemeanour in his Office, it shall be lawful for the Court before whom he shall be so convicted to adjudge that he shall be Amoved from his Office; and thereupon, if such Coroner shall have been elected by the Freeholders of any County, a writ shall issue for the amoving him from his office, and electing another Coroner in his stead, in such manner as writs for the amoval or discharge of Coroners and for electing Coroners in their stead are in any cases already directed by law: And if the Coroner so convicted shall have been appointed by the Lord or Lords of any Liberty or Franchise, or in any other manner than by the election of the Freeholders of any County, the Lord or Lords of such Liberty or Franchise, or the person or persons entitled to the nomination or appointment of any such Coroner, shall, upon notice of such judgment of amoval, nominate and appoint another person to be Coroner in his stead. 25 G. 2. c. 29. s. 6.

§ 4.
Inquisitions upon
view of a person
slain in the
King's palaces
or houses shall
be taken by the
Coroner of the
household only.

By Statute 33 H. 8. c. 12. (s. 3.) it is enacted, that all Inquisitions upon the view of persons Slain or hereafter to be slain within any of the King's said Palaces or Houses, or other House or Houses aforesaid, (1) shall be by authority of this Act had and taken hereafter for ever by the Coroner for the time being of the Houshold of our Sovereign Lord the King or his Heirs, without any adjoining or assisting of any other Coroner of any Shire within this Realm, by the Oaths of twelve or more of the Yeomen Officers of the King and his Heirs most Honourable Houshold, returned by the two Clerks

(1) See this act at length under title PALACES.

Comptrollers, the Clerks of the Check, and the Clerks Marshals, or one of them for the time being of the said Household, to whom the said Coroner of the same Household shall direct his Precept, which Coroner of our said Sovereign Lord the King's Household shall be from time to time named, appointed, and assigned by the said Lord Great Master or Lord Steward for the time being; and that the said Coroner of the said Household shall from time to time for ever, without delay, certify under his hand, and the seals of such persons as shall be sworn before him, all such Inquisitions, Indictments, and Offices upon the view of all dead bodies being slain at any time sith the Feast of All Saints aforesaid, or which hereafter shall be slain within any the King's said Palaces or Houses, or other House or Houses aforesaid, before the said Lord Great Master or Lord Steward, and in his Absence before the Treasurer, Comptroller, and Steward of the Marshalsey aforesaid, or before two of them, whereof the said Steward of the Marshalsey to be one; and that such Inquisitions and offices so certified shall be deemed, adjudged, and taken for ever as good and effectual in the Law, to all intents, constructions, and purposes, as any Inquisition taken upon the view of the body of any person being dead by any Coroner of any County of this Realm hath been or shall be adjudged or taken.

Corruption of Blood.

The Statute 54 G. 3. c. 145. "to take away Corruption of Blood in certain cases," enacts, that no attainder for Felony which shall take place from and after the passing of this act, save and except in cases of the Crime of High Treason, or of the Crimes of Petit Treason or Murder, or of Abetting, Procuring, or Counselling the same, shall extend to the disinheriting of any Heir, nor to the prejudice of the right or title of any person or persons, other than the right or title of the offender or offenders during his, her, or their natural lives only; and that it shall be lawful to every person or persons to whom the right or interest of any lands, tenements, or hereditaments, after the death of any such offender or offenders should or might have appertained if no such attainder had been, to enter into the same.

Corruption of Blood, upon attainder for Felony, taken away in all Cases but high and petit treason and murder, and abetting, procuring, or counselling the same.

County Courts.

When and where
the County
Court, Sheriff's
Turn, and View
of Frankpledge,
shall be held.

No County Court from henceforth shall be held but from month to month, and where greater time hath been used there shall be greater; nor any Sheriff or his bailiff shall keep his Turn in the Hundred but twice in the year, and no where but in due place and accustomed; that is to say, once after Easter, and again after the Feast of Saint Michael; and the View of Frankpledge shall be likewise at the Feast of Saint Michael, without occasion; so that every man may have his liberties which he had or used to have in the time of King Henry our Grandfather, or which he hath purchased since: but the View of Frankpledge shall be so done that our peace may be kept, and that the Tything be wholly kept as it hath been accustomed; and that the Sheriff seek no occasions, and that he be content with so much as the Sheriff was wont to have for his view making in the time of King Henry our Grandfather. 9 H. 3. c. 35.

Courts Leet and Courts Baron.

The Statute 1 (vulgo 2) Jac. 1. c. 5. reciting that the King's Majesty, the Lords Spiritual and Temporal, and other his Highness subjects of this Realm of England and Wales, have in divers places of the same many Franchises, Jurisdictions, Privileges, and Liberties, to keep Court Leets or Court Barons for the true Administration of Justice, and to the punishing and suppressing of Offences, the profits and perquisites of which Courts have heretofore been used to be levied and collected by the Bailiff or other minister of such Court, and by him accounted for to his Highness Progenitors, or other Lords or Ladies of such Courts and Manors, and as of right it ought so to be; but now, by reason of the great increase of people, the said profits and perquisites of Courts are grown to be of a better yearly value than in ancient time it hath been, divers that are now Stewards of such Courts have heretofore in their own names, or in the names of some other to their use, obtained and gotten divers grants of all the profits and perquisites of such Courts whereof they are Stewards, whereby many of the King's subjects are unjustly vexed, and by grievous fines and amerciaments unduly punished, greatly to the wronging and impoverishing of the tenants and inhabitants, where such Stewards are proceeding out of a greedy desire to make and obtain an undue and extraordinary gain to themselves; and then Enacts, that no Steward, Deputy Steward,

or other Under Steward of any the Courts aforesaid, shall directly or indirectly, in his own name, or in the name of any other, take, receive, or make benefit to his own use, in money, goods, or any other thing to the value of twelvepence or more, by virtue or colour of any Demise or Grant hereafter to be made of any the profits or perquisites or amerciaments of any such Courts whereof they are Steward, which rightfully shall belong to the Lords of the same; upon pain that every Steward offending contrary to the tenor of this present Act of Parliament, shall for every such his offence forfeit the sum of forty pounds, and to be disabled ever after to be Steward of such Court or of any other; one half of the forfeiture to be to the King, his Heirs and Successors, and the other half to any of his Majesty's subjects that shall complain in any of his Highness' Courts of Record, by action of debt, bill, plaint, or information, in which suit noessoign, protection, wager of law, or other dilatory plea, shall be allowed.

Stewards of Courts Leet or Courts Baron guilty of extortion shall forfeit £40, and be incapacitated,

Cumberland.

The statute 6 R. 2. c. 5. recited (See title ASSISES). Our Lord, the King hath granted and ordained that the Sessions of the Justices to take Assises and to deliver Gaols in the County of Cumberland, be holden in time of peace and of truce in the City of Carlisle, and in none other place in the County of Cumberland, as it hath been used and accustomed of old times. 14 H. 6. c. 3.

Assises shall be held at Carlisle in time of peace.

Deeds.

(And see Title FORGERY. VII. i.)

§ 1. *Punishment of Attornies and others not inserting the full Consideration in Deeds.*

§ 2. *Fraudulent Deeds, and the Punishment of Parties to the same, putting in ure, avowing, or maintaining such Deeds.*

By the Statute 48 G. 3. c. 149. s. 26. If any Attorney, Solicitor, Writer to the Signet, or other person, who shall be employed in or about the preparing of any such (1) Deed, Bond, or other Instrument, in or upon which the full Purchase or Considera-

§ 1. Attornies or others not inserting the full consideration in Deeds, &c. shall

(1) As are mentioned in the act, which imposes Stamp Duties on a great variety of Instruments.

forfeit £500
and be incapa-
citated.

tion Money is hereby required to be truly expressed and set forth as aforesaid; or who shall be employed for any of the parties thereto in anywise about or relating to the transaction therein mentioned, shall knowingly and wilfully insert or set forth, or cause to be inserted or set forth, in or upon such Deed, Bond, or other Instrument, any other than the full and true Purchase or Consideration Money, directly or indirectly paid or secured or agreed to be paid for the same, or shall in any wise aid or assist in the doing thereof respectively; every such Attorney, Solicitor, Writer to the Signet, or other person so offending, shall for every such offence forfeit the sum of five hundred pounds; and every Attorney, Solicitor, and Writer to the Signet so offending, and being thereof lawfully convicted, shall also be from thenceforth disabled to practise as an Attorney, Solicitor, or Writer to the Signet; and any other persons being entitled or intrusted to prepare any such Deed or other Instrument by virtue of any public office or employment, and being guilty of such offence in the execution of his office or employment, and being thereof lawfully convicted, shall also forfeit and lose his office or employment, and be from thenceforth incapable of holding the same.

§ 2.

Fraudulent
Deeds to avoid
Debts void.

2 Bulstr. 218.

Rast. 207.

2 Leon. 9. 223.

2 Roll. 493.

Leach, 222.

Dyer, 295, 351.

3 Coke, 80.

5 Co. 60.

8 Co. 171.

9 Co. 108.

10 Co. 56.

The statute 13 Eliz. c. 5. (made perpetual by 29 Eliz. c. 5. s. 1.) against fraudulent Deeds, Alienations, &c., reciting that Feoffments, Deeds, Grants, Alienations, Conveyances, Bonds, Suits, Judgments, and Executions, are contrived of malice, fraud, covin, collusion, or guilt, to the end, purpose, and intent to delay, hinder, or defraud Creditors and others of their just and lawful Actions, Suits, Debts, Accounts, Damages, Penalties, Forfeitures, Heriots, Mortuaries and Reliefs, &c.; it therefore enacts, that every Feoffment, Gift, Grant, Alienation, Bargain and Conveyance of Lands, Tenements, Hereditaments, Goods, and Chattels, or of any of them, or of any Lease, Rent, Common, or other Profit or Charge out of the same Lands, Tenements, Hereditaments, Goods, and Chattels, or any of them, by writing or otherwise; and every Bond, Suit, Judgment, and Execution, at any time had or made, or to be hereafter had or made, to the intent or for the purpose before declared and expressed, shall be deemed (only as against that person, his heirs, executors, successors, administrators, and assigns, and every of them, whose Actions, Debts, Suits, Accounts, Damages, Penalties, Forfeitures, Heriots, Mortuaries and Reliefs, by such fraudulent devices are, shall, or might be in anywise disturbed) void. s. 2.

The parties to such fraudulent Feoffment, Gift, Grant, Alienation, Bargain, Conveyance, Bonds, Suits, Judgments, Executions, and other things before expressed, and being privy and knowing of the same, which shall wittingly and willingly put in ure, avow, maintain, justify, or defend the same, or any of them, as true, simple, and done and made upon good consideration, or shall alien or assign any the Lands, Tenements, Goods, Leases, or other things before mentioned, to him or them conveyed, as is aforesaid, or any part thereof, shall incur the penalty of one year's value of the said Lands, Tenements, and Hereditaments, Leases, Rents, Commons, or other profits of or out of the same, and the whole value of such Goods and Chattels, and also so much Money as shall be contained in any such covinous and feigned Bond, the one moiety whereof to the Queen, and the other moiety to the party grieved by such fraudulent Feoffment, &c., to be recovered in any Court of Record by action, &c.; and also being thereof lawfully convicted, shall suffer imprisonment for one half year, without bail or mainprize. s. 3.

The penalties on persons being parties to such Deeds.

Co. Pla. 162.
Hob. 166.
Dyer, 351.
Cro. Eliz. 645.
Cro. Jac. 270.

This act shall not extend to Common Recoveries against Tenants in Tail, &c., the Reversion, &c. then being in another person. s. 4. Nor to make void any Conveyance, by reason whereof any person shall use any voucher in any writ of Formedon. s. 5. Nor to any Estate in Lands, &c. made upon good consideration, and bonâ fide conveyed to any person or body politic, &c. s. 16.

Not to extend to Common Recoveries, Voucher in Formedon, &c.

The Statute 27 Eliz. c. 4. (made perpetual by 39 Eliz. c. 18. s. 19.) reciting that Subjects and Corporations after Conveyances and Purchases of Lands, Tenements, Leases, Estates, and Hereditaments for Money or other good consideration, may incur loss and prejudice by reason of fraudulent and covinous Conveyances, Estates, Gifts, Grants, Charges, and Limitations of Uses made or to be made in or out of Lands, Tenements, or Hereditaments purchased; which said Conveyances, &c. were or shall be meant by the parties to be fraudulent and covinous of purpose to deceive such as shall purchase the same, or else by the secret intent of the parties, the same be to their own proper use and at their free disposition, coloured nevertheless by a feigned countenance and shew of words and sentences, as though the same were made bonâ fide, &c.; for remedy whereof, and avoiding such fraudulent Conveyances, it enacts, that every Conveyance, Grant, Charge, Lease, Estate, or Incumbrance, and Limitation of use or uses, of, in, or out of any Lands,

All fraudulent Conveyances and Limitation of Uses shall be void.

Moor, 602.
pl. 833. 615.
843.
1 Roll. 167.
Lane, 47.
Bridgm. 22.
Goldsb. 8. pl. 11.
3 Co. 80.
5 Co. 60.
6 Co. 72.
11 Co. 74.
Cro. Eliz. 44.
Cro. Jac. 168.
Vin. v. 13. 526.
Co. Entr. 677.
Hob. 166.

Tenements, or other Hereditaments, had or made heretofore, &c. or at any time hereafter, for the intent and of purpose to defraud and deceive such person or persons; Bodies Politic or Corporate, as have or shall afterwards purchase in Fee Simple, Fee Tail, for life, lives, or years, the same Lands, Tenements, and Hereditaments, or any part thereof, so formerly conveyed, granted, leased, charged, incumbered, or limited in use, or to defraud and deceive such as have or shall purchase any rent, profit, or commodity in or out of the same or any part thereof, shall be deemed and taken only as against the person and persons, Bodies Politic and Corporate, his and their Heirs, Successors, Executors, Administrators, and Assigns, and against every person lawfully claiming under the same, which hereafter shall so purchase for money or other good consideration the Lands, &c. or any part thereof, or any rent, profit, or commodity out of the same, to be utterly void.

The punishment
of the parties
thereto putting
the same in ure.

The parties to such feigned, covinous, and fraudulent Gifts, Grants, Leases, Charges, or Conveyances before expressed, or being privy and knowing of the same, which shall wittingly and willingly put in ure, avow, maintain, justify, or defend the same, and as true, simple, and done bonâ fide, or upon good Consideration, to the disturbance or hindrance of the said Purchaser, Lessee, or Grantee, or to the disturbance or hindrance of their Heirs, Successors, Executors, Administrators, or Assigns, or such as shall lawfully claim any thing under them, shall incur the penalty and forfeiture of one year's value of such Lands, Tenements, and Hereditaments so purchased or charged, one moiety to the party grieved by such fraudulent Gift, &c.; and the other moiety to the Queen; and also being thereof lawfully convicted, shall suffer imprisonment for one half year without Bail or Mainprize. s. 3.

Disclaimer.

No Felon in
Wales shall dis-
claim out of the
seigniorie.

It is Ordained and Established, that no Thief nor Felon in Wales openly known, be suffered to disclaim out of the Seigniorie where the Felony was done, and that such manner of disclaiming be utterly put out; and that as well the said Thieves openly known as other Thieves, be put to answer as privy to the said Indictments or Accusements in the same Seignories where the Thieves be taken, without being delivered by disclaiming or by Letters of Mark in any manner. 9 H. 4. c. 4. And see title WALES.

Disseisin.

If any be disseised of their Freehold, and before the Justices in Eyre have recovered Seisin by Assize of Novel Disseisin, or by Confession of them which did the Disseisin, and the Disseisee hath had Seisin delivered by the Sheriff, if the same Disseisors, after the Circuit of the Justices, or in the meantime, have disseised the same Plaintiff of the same Freehold, and thereof be convict, they shall be forthwith taken and committed and kept in the King's Prison, until the King hath discharged them by fine, or by some other mean: and this is the form how such convict persons shall be punished; that is to say, When the Plaintiffs come into the Court of our Lord the King, they shall have the King's Writ, directed to the Sheriff, in which must be contained the Plaint of Disseisin framed upon the Disseisin. And then it shall be commanded to the Sheriff, that he, taking with him the Keeper of the Pleas of the King's Crown, and other lawful Knights, in his proper person shall go unto the Land or Pasture where the Plaint hath been made, and that he make before them by the first Jurors and other neighbours and lawful men, diligent Inquisition thereof; and if they find him disseised again, (as before is said) then let him do according to the provision afore mentioned; but, if it be found otherwise, the Plaintiff shall be amerced, and the other go quit. Neither shall the Sheriff execute any such Plaint without special Commandment of the King. In the same manner shall be done to them that have recovered their Seisin by Assize of Mort dauncester; and so shall it be of all Lands and Tenements recovered in the King's Courts by Inquests, if they be disseised after by the first Deforcors, against whom they have recovered anywise by Inquest. 20 H. 3. c. 3.

Punishment of
Disseisors.

Restitution by
the Sheriff of
Lands disseised.

They which be taken and imprisoned for Re-disseisin shall not be delivered without Special commandment of our Lord the King, and shall make fine with our Lord the King, for their Trespass. And if it be found that the Sheriff delivereth any contrary to this Ordinance, he shall be grievously amerced therefore; and nevertheless they which are so delivered by the Sheriff without the King's commandment shall be grievously punished for their Trespass. 52 H. 3. c. 8.

Dissenters.

The punishment of persons disturbing, &c. dissenting Congregations, Preachers, or Teachers.

The Statute 1 W. & M. c. 18. (for exempting dissenting Protestant subjects from the penalties of certain Laws), enacts, (s. 18.), that if any person or persons at any time or times after 10 June 1688, do and shall willingly and of purpose maliciously or contemptuously come into any Cathedral or Parish Church, Chapel, or other Congregation permitted by this act, and disquiet or disturb the same, or misuse any Preacher or Teacher, such person or persons, upon proof thereof before any Justice of Peace by two or more sufficient witnesses, shall find two Sureties, to be bound by recognizance in the penal sum of £50; and in default of such Sureties shall be committed to Prison, there to remain till the next General or Quarter Sessions; and upon Conviction of the said Offences at the said General or Quarter Sessions, shall suffer the pain and penalty of £20 to the use of the King and Queen Majesties, their Heirs and Successors. The Toleration Act, 31 G. 3. c. 32. s. 10. contains a similar clause to the above. See title RELIGION.

The Statute 52 G. 3. c. 155. "to repeal certain acts and amend other acts relating to Religious Worship and Assemblies, and persons teaching or preaching therein," enacts (s. 12.) that if any person or persons at any time after the passing of this act, do and shall wilfully and maliciously or contemptuously disquiet or disturb any Meeting, Assembly, or Congregation of persons assembled for Religious Worship permitted or authorized by this act or any former act or acts of Parliament, or shall in any way disturb, molest, or misuse any Preacher, Teacher, or person officiating at such Meeting, Assembly, or Congregation, or any person or persons there assembled, such person or persons so offending, upon proof thereof before any Justice of the Peace, by two or more credible witnesses, shall find two Sureties, to be bound by Recognizance in the penal sum of £50, to answer for such Offence; and in default of such Sureties shall be committed to Prison, there to remain till the next General or Quarter Sessions, and upon Conviction of the said Offence at the said General or Quarter Sessions, shall suffer the pain and penalty of forty pounds.

This latter enactment, though evidently copied from that of 1 W. & M., does not purport to repeal the clause in that or other former acts, but expressly otherwise refers to them, and for these reasons both clauses are inserted in this compilation.

Distress.

"Whereas at the time of a Commotion lately stirred up within this Realm, and also sithence, many great men, and divers other, refusing to be justified by the King and his Court, like as they ought and were wont in time of the King's noble Progenitors, and also in his time; but took great Revenges and Distresses of their Neighbours, and of other, until they had amends and fines at their own pleasure; and further, some of them would not be justified by the King's Officers, nor would suffer them to make Delivery of such Distresses as they had taken of their own authority:" It is Provided, Agreed, and Granted, that all persons, as well of high as of low estate, shall receive justice in the King's Court; and none from henceforth shall take any such Revenge or Distress of his own authority, without award of our Court, though he have Damage or Injury, wherof he would have amends of his neighbour, either higher or lower. And upon the foresaid article it is provided and granted, that if any from henceforth take such Revenges of his own authority, without Award of the King's Court (as before is said), and be convict thereof, he shall be punished by fine, and that according to the Trespass. And likewise, if one neighbour take a Distress of another, without Award of the King's Court, whereby he hath damage, he shall be punished in the same wise, and that after the quantity of the Trespass; and nevertheless sufficient and full amends shall be made to them that have sustained loss by such Distresses. 52 H. 3. c. 1.

Henceforth all persons shall receive justice in the King's Courts, and not take any revenge or distress of their own authority;

on pain of punishment by Fine.

None from henceforth shall cause any Distress that he hath taken to be driven out of the County where it was taken; and if one Neighbour do so to another of his own authority, and without Judgment, he shall make fine, (as above is said) as for a thing done against the Peace: Nevertheless, if the Lord presume so to do against his Tenant, he shall be grievously punished by Amerciament: Moreover, Distresses shall be reasonable and not too great; and he that taketh great and unreasonable Distresses shall be grievously amerced for the Excess of such Distresses. 52 H. 3. c. 4.

Distresses shall not be driven out of the County where it was taken, on pain of Amerciament.

Distresses shall be reasonable, or the party doing contrary shall be amerced.

It shall be lawful for no man from henceforth for any manner of cause to take Distresses out of his fee, nor in the King's highway, nor in the common Street, but only to the King or his officers, having special authority to do the same. 52 H. 3. c. 15.

Distresses shall not be taken out of a man's fee, nor in the highway, &c.

East India Company.

(And see Title FORGERY. III. iv.)

Oppressions and other offences committed by the President, &c. of the East India Company at St. Helena, may be tried in K. B. or in any county in England.

If any of the said United Company's (1) Presidents or Council at their respective Principal Settlements, or any of them, or their Governor or Council at the Island of Saint Helena, shall, after 25th March 1764, be guilty of Oppressing any of his Majesty's subjects beyond the Seas within their respective Jurisdictions or Commands, or shall be guilty of any other crime or offence contrary to the Laws of that part of Great Britain called England, or in force within their respective Jurisdictions or Commands, such Oppressions, Crimes, and Offences may be inquired of, heard, and determined in his Majesty's Court of King's Bench within that part of Great Britain called England, or before such Commissioners, and in such County of that part of Great Britain called England, as shall be assigned by his Majesty's Commission, and by good and lawful men of the same County; and such punishment shall be inflicted on such offenders as are usually inflicted for offences of the like nature committed in that part of Great Britain called England. 27 G. 2. c. 9. s. 13.

The like as to offences committed by the Presidents, &c. of the East India Company at Fort Marlborough, &c.

If any of the said United Company's (1) Presidents or Council at their said Settlement of Fort Marlborough, or at any other principal Settlement wherein the said Company may be hereafter empowered to hold Courts of Judicature, shall be guilty of oppressing any of his Majesty's subjects beyond the Seas within their respective Jurisdictions or Commands, or shall be guilty of any other crime or offence contrary to the Laws of that part of Great Britain called England, or in force within their respective Jurisdictions or Commands, such oppression, crimes, and offences may be inquired of, heard, and determined in his Majesty's Court of King's Bench within that part of Great Britain called England, or before such Commissioners, and in such County of that part of Great Britain called England, as shall be assigned by his Majesty's Commission, and by good and lawful men of the same County; and such punishment shall be inflicted on such offenders as are usually inflicted for offences of the like nature committed in that part of Great Britain called England. 1 G. 3. c. 14. s. 2.

Demanding or receiving presents, deemed extortion.

By the Statute 24 G. 3. st. 2. c. 25. s. 45. it is enacted, that the demanding or receiving of any sum of Money, or other Valuable thing, as a Gift or Present, or under colour thereof,

(1) Of Merchants of England trading to the East Indies.

whether it be for the use of the party receiving the same, or for or pretended to be for the use of the said Company, or of any other person whomsoever, by any British subject holding or exercising any office or employment under his Majesty, or the said United Company in the East Indies, shall be deemed and taken to be Extortion, and shall be proceeded against and punished as such under and by virtue of this Act; and the offender shall also forfeit to the King's Majesty, his Heirs and Successors, the whole gift or present so received, or the full value thereof.

By s. 47. so much [s. 24.] of 13 G. 3. c. 63. as imposes any penalty or forfeiture on persons receiving such gifts, &c., or as directs that such gifts, &c. shall belong to the said Company, is repealed.

Provided always, that the Court or Jurisdiction before whom every such offence shall be tried, shall have full power and authority to direct the said present or gift, or the value thereof, to be restored to the party who gave the same, or to order the whole or any part thereof, or of any fine which the Court shall set on the offender, to be paid or given to the prosecutor or informer, as such Court in its discretion shall think fit. 24 G. 3. st. 2. c. 25. s. 46. See post, Stat. 26 G. 3. c. 57. s. 15.

Court may order presents to be returned.

Provided, that nothing herein contained shall extend, or be construed to extend, to prohibit or prevent any person exercising the profession of Counsellor at Law, Physician or Surgeon, or any Chaplain, from accepting, taking, or receiving fees, gratuities, or rewards *bonâ fide* in the way of his profession only. s. 48.

Not to extend to certain professional fees.

The wilful disobeying, or the wilfully omitting to execute the orders or instructions of the Court of Directors of the said United Company, by any of the Officers or Servants of the said United Company in the East Indies (unless in cases of necessity, the burden of the proof of which necessity shall be on the party so disobeying or omitting to execute such orders and instructions as aforesaid), and every wilful Breach of the Trust and Duty of any office or employment under the said United Kingdom, by any of the Officers or Servants of the said United Company in the East Indies, shall be deemed and taken to be a Misdemeanor at Law, and shall be proceeded against and punished as such by virtue of this Act. s. 49.

Wilful disobedience of the Company's orders, declared to be a misdemeanor;

The making or entering into, or being a party to any corrupt Bargain or Contract for the giving up or for the obtaining, or in any other manner touching or concerning the Trust and Duty of any Office or Employment under the said United Company in

or entering into any bargain to obtain any office.

the East Indies, by any British Subjects whomsoever there resident, shall be deemed and taken to be a Misdemeanor at Law, and shall be proceeded against and prosecuted as such by virtue of this Act. 24 G. 3. st. 2. c. 25. s. 50.

Company's servants dismissed, not to be restored.

After Sentence or Judgment of any Court, having competent jurisdiction, whether in Great Britain or in India, against any of the said United Company's Servants, Civil or Military, for any Debt or Penalty due or belonging to the said Company, or for any Extortion or other Misdemeanor, it shall not be lawful for the said United Company, upon any pretence whatsoever, to release or compound such Sentence or Judgment, or to restore any Servant or Servants of the said Company who shall have been removed or dismissed from his or their Office or Employment, for or on account of Misbehaviour, by the Sentence of any of the said Courts. s. 51.

Governor General of Fort William may issue his warrant for securing any persons suspected of correspondence dangerous to the safety of the Settlement.

By s. 53. the Governor General of Fort William is authorized to issue his warrant for securing and detaining in custody any person suspected of carrying on any Illicit Correspondence, dangerous to the Peace and Safety of the Settlement or British Plantations in India; and if, upon examination taken on oath in writing before the said Governor and Council of Fort William, there shall appear reasonable grounds for the charge, the said Governor General is empowered to commit such person to safe custody, and shall within a reasonable time, not exceeding five days, cause to be delivered to such person the accusation, and the party so confined shall be permitted to deliver in his defence in writing, with a list of witnesses to be examined in support of his defence, who shall be examined accordingly in his presence, and their examination taken down in writing; and if, notwithstanding such defence, there shall appear to the said Governor General and Council reasonable grounds for the former proceeding and for continuing the confinement, the party shall remain in custody until brought to trial in India, or sent to England for that purpose; and all such Examinations and Proceedings shall be transmitted to the Court of Directors by the first Dispatches; and in case such person is to be sent to England, the said Governor General shall cause such person to be sent by the first convenient opportunity, unless such person shall be disabled by illness from undertaking the voyage.

The sixty fourth section recites, that "it would conduce to the better Government, management, and ordering of the Territories, Possessions, Revenues, and Commerce of the said Company, if some more effectual course than the Common

Law hath provided were devised, for the prosecuting and bringing to speedy and condign Punishment persons guilty of the crime of Extortion, and other Misdemeanors committed in the East Indies by British Subjects holding Offices or Employments there under his Majesty, his Heirs or Successors, or under the said United Company;" and then enacts, that it shall and may be lawful to and for the Coroner and Attorney of our Lord the King in the Court of King's Bench, by rule of the Court of King's Bench, to be obtained upon Motion to be made for that purpose, at the instance of any person or persons (and which rule the said Court is hereby empowered to grant at their discretion, if the magnitude and circumstances of the case shall appear to the said Court to render it proper), or for his Majesty's Attorney General, or for the Court of Directors or Court of Proprietors of the said United Company, in the name of the said United Company, to exhibit in the said Court of King's Bench an Information against any such person for any such offence as aforesaid, committed after 1st May 1785, whereupon the said Court shall and may, at the instance of the Prosecutor, cause the party against whom such Information shall have been exhibited as aforesaid to be attached, and may and shall order him to stand committed to the prison of the Marshalsea, or to the Tower of London, or to the Gaol of Newgate, at the discretion of the said Court, there to be detained until he shall be delivered by due course of Law, or until he, together with two sufficient sureties, shall have entered into a recognizance unto the King's Majesty, his Heirs and Successors, in such Sum of Money, and with such Condition for his Appearance, and for satisfying the Judgment to be pronounced in and upon such Information, as to the said Court in its discretion shall seem meet; and when the Defendant shall have appeared and pleaded to the said Information, the Chief Justice, or some of the Justices of the said Court of King's Bench, shall within ten days (unless any Mandamus shall be granted for the Examination of Witnesses, as herein-after provided (1), upon a motion to be made within a time to be limited by the said Court of K. B. for that purpose), deliver the Record of the said Information and Plea to the Lord High Chancellor of Great Britain, or Lord Keeper, or Lords Commissioners for the Custody of the Great Seal of Great Britain, who shall there-

Informations in K. B. may be exhibited against persons for offences committed in the East Indies.

(1) See section 81.

upon issue a Commission under the said Great Seal in manner herein-after mentioned. See post, statute 26 G. 3. c. 57.

Defendants not appearing, yet the information shall proceed.

If any person or persons against whom any information shall be exhibited under the authority of this act, shall neglect or refuse, within such respective times as shall be allowed to him or them for those purposes, by the rules or according to the discretion of the said Court, to appear and plead not guilty to such information, it shall and may be lawful for his Majesty's Attorney General, or other Prosecutor, to cause an Appearance, and the Plea of Not Guilty to be entered for such person or persons, and the said Information shall thereupon proceed as if the party or parties had appeared and pleaded Not Guilty thereto. 24 G. 3. st. 2. c. 25. s. 65.

Subpoenas may be issued.

Subpoenas requiring the attendance, before the Special Commissioners to be appointed under this act, of any witness or witnesses in or on behalf of any person or persons prosecuted under the authority of this act, may be issued out of the Crown Office of the Court of King's Bench; and in case any witness having due notice of such Subpoena shall not attend in obedience to such Subpoena, his non-attendance shall be deemed a Misdemeanor, and subject him to be indicted; and in case any such witness shall attend, but shall refuse to be examined, it shall and may be lawful for the said Special Commissioners to punish such witness by fine or imprisonment, at their discretion. s. 74.

Commissioners may send for persons, papers, and records;

The Special Commissioners appointed under this act shall have full power and authority, by virtue of this act, to send for persons, papers, and records, and to examine all witnesses who shall come or be brought before them upon oath, to be taken before them, and to cause the examinations of such witnesses, if they shall so think fit, to be reduced into writing, and to be signed and subscribed by such witnesses respectively; and if any person brought before the said Special Commissioners shall prevaricate in his evidence, or shall otherwise misbehave himself before the said Special Commissioners, the said Special Commissioners shall and may, if they so think fit, commit such person to the prison of the Fleet, or the Gaol of Newgate, there to remain for such time as the said Special Commissioners shall appoint, unless the said Commissioners shall order them to be released sooner, which they are hereby empowered to do; and if any such witness shall wilfully give any false evidence before the said Special Commissioners, such witness

and may commit persons prevaricating, &c.

Punishment for perjury.

shall be deemed guilty of wilful and corrupt Perjury, and shall and may be indicted and punished for the same accordingly.

24 G. 3. st. 2. c. 25. s. 75.

The Recognizance to be entered into as aforesaid shall bind the property of all and singular the goods and chattels which were the goods and chattels of the principal party entering into such recognizance at the time of his entering into the same, or which he shall or may acquire at any time afterwards, and before he shall be discharged from such recognizance; and shall also bind all estate and interest in all lands, tenements, and hereditaments whereof the said principal party shall be seised or possessed, or whereof any person or persons in trust for the party so entering into such recognizance (at the time of his entering into the same, or at any time afterwards, and before he shall be discharged therefrom) shall be seised or possessed. s. 76.

What property shall be bound by the recognizance.

Where the party against whom such Information shall have been exhibited as aforesaid, shall be adjudged to be guilty of the Crime charged in such Information, and shall be adjudged to pay a fine unto his Majesty, his heirs and successors, it shall and may be lawful for his Majesty's Attorney General, or for the said United Company, or other prosecutor, to exhibit interrogatories before the Court of Exchequer, for the examination of of the party adjudged to pay such fine as aforesaid, as to his estate and effects sufficient to answer the same fine; and if the said party shall not appear, or shall refuse to answer to such interrogatories, or shall wilfully conceal any part of his estate or effects herein-before declared to be bound by such recognizance as aforesaid, or which shall by law be liable to be extended in satisfaction thereof, such party, on his default of appearance before such Court, or on his refusal to answer such interrogatories, shall forfeit to his Majesty, his heirs and successors, all and singular his goods and chattels, lands, tenements, and hereditaments whatsoever, and shall be liable to be imprisoned in the Gaol of Newgate or the Tower of London for such time as the said Court of Exchequer shall direct. s. 77.

Defendant may be examined on interrogatories as to his estate.

And whereas the provisions made by former Laws for the hearing and determining in England offences committed in India have been found ineffectual, by reason of the difficulty of proving in this kingdom matters done there: be it therefore enacted, that in all cases of Informations laid or exhibited by virtue of this act in the Court of King's Bench, for misdemeanors or offences committed in India, it shall and may be law-

Depositions of witnesses taken in India and transmitted in to K. B. may be read in evidence on the commission.

ful for his Majesty's said Court, upon motion to be made on behalf of his Majesty's Attorney General or other Prosecutor, or of the Defendant or Defendants, to award a writ or writs of Mandamus, requiring the Chief Justice and Judges of the Supreme Court at Fort William, in Calcutta, for the time being, or the Judges of the Mayor's Court of any of the British settlements in India, as the case may require, who are hereby respectively authorized and required accordingly, to hold a Court with all convenient speed for the examination of witnesses and receiving other proofs concerning the matters charged in such Informations respectively, and in the meantime to cause such public notice to be given of the holding the said Court, and to issue such summons or other process as may be requisite for the attendance of witnesses, and of the agents or counsel of all or any of the parties respectively, and to adjourn from time to time as occasion may require; and such examination as aforesaid shall be then and there openly and publicly taken *viva voce* in the said Court, upon the respective oaths of Witnesses, and the oaths of skilful Interpreters, administered according to the forms of their several religions, and shall, by some sworn officer of such Court, be reduced into one or more writing or writings on parchment, in case any duplicate or duplicates should be required by or on behalf of any of the parties interested, and shall be sent to his Majesty in his Court of K. B. closed up, and under the seals of two or more of the Judges of the said Supreme Court; and one or more of the Judges of the said Supreme Court shall deliver the same to the Agent or Agents of the party or parties requiring the same, which said Agent or Agents (or in case of his or their death the person into whose hands the same shall come) shall deliver the same to one of the Clerks in Court of his Majesty's Court of K. B. in the public Office, and make oath that he received the same from the hands of one or more of the Judges of such Court in India (or in what manner the same came into his hands), and that the same has not been opened or altered since he so received it (which oath such Clerk in Court is hereby authorized and required to administer); and such depositions being duly taken and returned, according to the true intent and meaning of this Act, shall be allowed and read before the said Special Commissioners, and shall be deemed as good and competent evidence as if such witness had been present, and sworn and examined *viva voce* at any trial before the said Special Commissioners for such Crimes or Misdemeanors as aforesaid, any law or usage to the

contrary notwithstanding; and all parties concerned shall be entitled to take copies of such depositions at their own costs and charges; and the Chief Justice of the said Court of King's Bench, or one of the Judges of the said Court, shall with all convenient speed after such depositions shall have been so received, together with the said information and plea, cause the same to be delivered over to the Lord High Chancellor, or Lord Keeper, or Lords Commissioners for the Custody of the Great Seal of Great Britain, who shall thereupon issue the Commission under the Great Seal in the manner by this Act directed. 24 G. 3. st. 2. c. 25. s. 78. See post, 26 G. 3. c. 57. s. 28.

Chief Justice,
&c. of K. B.
shall deliver over
informations, de-
positions, &c. to
the Chancellor.

Provided always, that no Information, or Plea, or Deposition which by this Act is directed to be delivered over by the Chief Justice of the Court of King's Bench, or one of the Judges of the said Court, to the Lord High Chancellor, or Lord Keeper, or Lords Commissioners for the Custody of the Great Seal of Great Britain, shall be so delivered over at any other time than during some one of the three usual and accustomed Terms hereinafter mentioned; that is to say, Hilary Term, Easter Term, or Michaelmas Term. s. 79.

Such delivery to
be within the
terms here men-
tioned.

And in order to promote the ends of Justice in ascertaining facts committed at so great a distance from this Country, by such Evidence as the necessity of the case will render practicable, be it enacted, that in all proceedings upon such Informations as aforesaid, as well the Depositions taken under such Commission or Commissions after the publication thereof, as also all Writings which shall have been transmitted from the East Indies to the Court of Directors of the said United Company, by their Officers or Servants resident in the East Indies, in the usual course of their correspondence with the said Court of Directors, and Copies of all Writings which shall have been transmitted by the said Court of Directors, or by any Committee thereof, to the Officers and Servants of the said United Company resident in the East Indies, and which in any manner relate to the subject matter of the charge to be contained in such Information, or to the Defence to be made thereto, may be admitted by the said Commissioners to be offered in Evidence, and shall not be deemed inadmissible or incompetent, unless upon objections arising from the nature of the contents of the said Writings, subject nevertheless to be impeached in point of credibility by such observations and objections as the nature of such Evidence or other circumstances may suggest, any rule of the Common Law to the contrary notwithstanding. s. 80.

Certain writings
and copies re-
ceived from or
sent to India by
the Company,
may be admitted
in evidence.

Court of K. B. may order examination of witnesses upon interrogatories.

The said Court of King's Bench shall have power and authority, at the prayer of his Majesty's Attorney General or other prosecutor, or of the party against whom such Information shall be exhibited, to order an examination *de bene esse* of witnesses upon interrogatories, to be had and taken before an Examiner to be by them appointed for that purpose, or by Commission, as the case shall require; and to cause the Depositions of such Witnesses to be published when the same shall appear to them to be proper and necessary, and which Depositions shall be afterwards admitted to be read in Evidence before the said Commissioners, and shall be deemed good and sufficient Evidence in the Law as aforesaid, saving all just exceptions to be taken to such Depositions when the same shall be offered to be read as aforesaid. s. 81.

Limitation of prosecutions.

No prosecution in consequence of this Act shall be commenced unless within the space of three years after the return of the party prosecuted into Great Britain, or within three years after the delivery of the inventory or particular required by this act. s. 82.

This act not to affect territorial acquisitions.

Provided always, that nothing herein contained shall extend, or be construed to extend, to prejudice or affect the rights or claims of the public, or the said United Company, respecting the said territorial acquisitions and revenues. s. 83.

Public act.

This Act shall be deemed and taken to be a public act. s. 84.

Recital of 24 G. 3. st. 2. c. 25.

The Statute 26 G. 3. c. 57. intituled "An act for the further regulation of the Trial of persons accused of certain Offences committed in the East Indies; for repealing so much of an act, made in the twenty-fourth year of the reign of his present Majesty, [24 G. 3. st. 2. c. 25.] as requires the Servants of the East India Company to deliver Inventories of their Estates and Effects; for rendering the Laws more effectual against persons unlawfully resorting to the East Indies; and for the more easy proof, in certain cases, of Deeds and Writings executed in Great Britain or India;" recites that by an act made in the twenty-fourth year of his Majesty's reign, divers provisions were made and enacted for the more effectually prosecuting and bringing to speedy and condign punishment the crime of Extortion and other Misdemeanors committed in the East Indies by British Subjects in the service of his Majesty or of the said Company; and particularly for constituting a Special Court of Judicature for the trial of any Information to be exhibited in his Majesty's Court of King's Bench against such offenders, under and by virtue of a Commission to be awarded under the Great Seal of Great Britain, directed to Four Members of the House of Peers, Six

Members of the House of Commons, and Three of the Judges of his Majesty's Courts of Law at Westminster, such Members and Judges to be selected and chosen in the manner prescribed by the said act; and the said Special Commissioners to be so constituted by such Commission, or any Seven or more of them; (of whom one of the said three Judges was to be one), were by the said act invested with full power and authority to hear and determine every such Information, and to pronounce Judgment thereon, according to the effect of the Judgment at Common Law, upon Convictions had and obtained according to the course of the Common Law, for Extortion or other Misdemeanor: and that the selection of the Members of the said respective Houses of Parliament for the purposes aforesaid, might be rendered more easy and convenient: and that it is judged expedient that instead of seven, not less than ten Commissioners, to be constituted by such Commission as aforesaid, should have authority to hear and determine any such Information, and for that purpose that a greater number of Members of each House of Parliament, than is directed by the said act, should, together with the said three Judges, be named and authorized as Commissioners in and by such Commission: and that it is also expedient, that for giving greater vigour and efficacy to the Proceedings and Judgments of the said Special Commissioners, further Regulations should be provided and established: and then enacts, that the Members of the House of Lords, by the said act directed to be named by the said House for the purposes aforesaid, shall be chosen, nominated, and appointed in the manner following, and no otherwise, any thing in the said recited act contained to the contrary notwithstanding; (that is to say), that within the first thirty sitting days of the House of Lords in every future Session of Parliament, the Members of the said House, or any of them, may respectively deliver in at the Table, Lists inclosed in covers, sealed up, and having the words East India Judicature, and their respective Names or Titles of Honour, by which they are generally known and distinguished, indorsed on the outside thereof in their respective proper Handwriting, every such List containing the Names or Titles of Twenty-six Peers; and that on the first sitting Day after the expiration of the said Thirty Days, the Clerk of the Parliaments, or his Deputy or Assistant, or such other person as the said House shall direct, shall prepare and lay upon the Table of the said House a List of the Names or Titles of the Lords who shall, within the said Thirty Days, have

Within the first 30 sitting days of every Session, lists of 26 names to be delivered in sealed up, by the Members of the Upper House, from which shall be selected 26 peers;.

delivered such Lists; and that on the next sitting Day of the said House, the said Covers shall be opened by the Clerk of the Parliaments, or his Deputy or Assistant, or such other person as the said House shall direct, by the order of the Speaker of the said House, during the sitting of the said House, and all the Lists which shall be so delivered shall be taken out of the said Covers and put into a Box; and the said Lists shall be referred by the said House to a Committee, who shall examine the same, and within such time as the said House shall direct, report to the House the name or title of every Lord whose name or title shall appear in ten or more of such lists; and if the names or titles of the respective Members so returned shall not amount to twenty-six Members at the least, exclusively of such of the Members so returned as shall be struck out of the said lists, according to the directions of this Act, the Members of the said House, or any of them, may, on any of the next seven sitting days of the said House, deliver in fresh lists in covers sealed up, and indorsed in the manner herein-before directed, each of such lists containing a number of names or titles of Members of the said House equal to that number by which the list returned by the Committee shall, exclusively of the Members struck out as aforesaid, fall short of twenty-six; and the said covers shall be opened, and the lists disposed of, referred, and proceeded upon after the end of the said seven days, in the manner herein-before directed in respect to the said former lists.

and in the same period, like lists of 40 Commons to be delivered in, from which shall be selected 40 Members.

The Members of the House of Commons, to be named by that House for the purposes aforesaid, shall be chosen, nominated, and appointed in the manner following, and no otherwise, any thing in the said recited Act contained to the contrary notwithstanding; (that is to say), that within the first thirty sitting days of the said House in every future Session of Parliament, the Members of the said House, or any of them, may respectively deliver in at the table, lists inclosed in covers, sealed up, and having the words East India Judicature, and their respective names indorsed on the outside thereof, in their respective proper handwriting, each of which lists shall contain the names of forty Members of the said House; and that, on the first sitting day after the expiration of the said thirty days, the Clerk of the said House, or his Deputy or Assistant, or such other person as the House shall direct, shall prepare, and lay upon the table, the names of all the Members who shall have delivered such lists; and that on the next sitting day of the said House, the Clerk of

the said House, or any or either of such other persons as aforesaid, shall, at the table, during the sitting of the said House, by the order of the Speaker, take the lists out of the said covers, and put the said lists together into a box; and the said lists shall be immediately referred by the said House to a Committee, who shall examine the same, and within such time as the House shall direct, report to the House the name of every Member whose name shall appear in twenty or more of the said lists; and if the names so returned shall not amount to forty at the least, exclusively of such of the said Members therein named as shall be struck out of the said lists according to the directions of this Act, the Members of the said House, or any of them, may, on any of the next seven sitting days of the said House, deliver in at the table of the said House fresh lists, in covers, sealed up and indorsed in the manner herein-before directed, each list containing a number of names of Members of the said House equal to that number by which the list returned by the said Committee shall, exclusively of such of the said names as shall be so struck out, fall short of forty; and the said lists shall be opened, disposed of, referred, and proceeded upon, after the end of the said seven days, in the manner herein-before directed in respect to the said former lists: And the like order and course respectively as aforesaid shall be taken in each House of Parliament, until the said numbers of twenty-six Members of the House of Lords, and forty Members of the House of Commons, shall have been returned to the said respective Houses, by the Committees to whom the said lists shall be referred, exclusively of such of the Members so returned as shall be struck out of the said lists according to the directions of this Act. s. 2.

Provided always, that if any of the persons named in any of the lists returned by the said respective Committees, shall appear to hold any civil office of profit under the Crown during his Majesty's pleasure, or to be, or to have been, a Commissioner for the Affairs of India, or to be, or to have been, a Director of the said Company, or to hold, or to have held, any office or employment in the service of the said Company in India, the names of all and every such persons shall be struck out of the said lists, by the order of the said respective Houses of Parliament, s. 3.

Persons holding offices under the Crown during pleasure, &c. to be struck out of the lists.

Provided also, that if the delivery of the said lists at the tables of the respective Houses of Parliament, in the manner directed by this act, shall occasion any interruption of other business, or be found inconvenient in any other respect, it shall

Mode of delivering in of lists left to the Houses of Parliament, if that proposed be

found inconvenient.

The party accused may challenge 13 Peers and 20 Commons contained in the lists, as the names are drawing by lot in the presence of the Judges, according to the recited act.

Prosecutor may challenge the same number.

The first five Peers, and the first seven Commons, whose names shall be drawn out, and not challenged, to be, with the three Judges, appointed special Commissioners.

be lawful for both or either of the said Houses, by their order or orders, to substitute such other mode for the delivery of such lists as the said Houses shall respectively think fit, and that the said lists shall, after the making of any such order or orders, be delivered according to the tenor and directions thereof respectively; any thing herein-before contained to the contrary notwithstanding. s. 4.

By s. 5. it is further enacted, that the names of the twenty-six Peers and forty Members of the House of Commons which shall have been so chosen by the said respective Houses of Parliament, or the names of the twenty-six Peers and forty Members of the House of Commons which (in case the said lists of both or either of the said Houses shall happen to contain a greater number of Members than as aforesaid respectively) shall have been drawn by lot according to the directions of the said former act, or of such of them as shall personally appear at the time and place appointed, in the manner by the said act directed, shall be put into a box to be drawn by lot, in the presence of the Judges to be appointed according to the directions of the said recited act, and of the parties to the Information to be tried, or their counsel or agents; and the person or persons against whom the said Information shall have been exhibited shall have the liberty, as the said names are drawn out, to make peremptory challenges to the number of thirteen of the Peers and twenty of the Members of the House of Commons, whose names shall have been put into the said box; and his Majesty's Attorney General, or other prosecutor, as the case may happen, and also the party or parties against whom such Information shall have been exhibited as aforesaid, shall respectively have power to make challenges to any of the names which shall be so drawn out, and to assign for cause of challenge any such matter as in the opinion of the three Judges, or the majority of them, shall appear in their discretion sufficient to set aside the person or persons so challenged, for the purpose of obtaining equal justice; and the first five names of the said Peers, and likewise the first seven names of the said Members of the House of Commons, which being drawn out shall not be so challenged, or against whom no challenge shall have been allowed, shall be returned by the said Judges to the Lord High Chancellor, or Lord Keeper, or Lords Commissioners for the custody of the Great Seal of Great Britain, who shall cause the said five Peers and the said seven Members of the House of Commons, by their respective proper names or titles of honour, together with the names of the said three

Judges, to be inserted in the special commission to be issued by virtue of the said recited act and of this present act; and the persons who shall be so named and authorized in and by the said commission shall appear within ten days at the time and place to be appointed by the said three Judges, and shall then and there take the following oath, before the Lord High Chancellor, or Lord Keeper, or, Lords Commissioners of the Great Seal of Great Britain for the time being, or any one of them :

“ I, A. B., do swear, that as a Commissioner appointed by his Majesty’s commission for the trial of the Information now at issue against C. D., I will diligently attend such Trial, and that I will hear and determine the same to the best of my judgment, according to the evidence which shall be given. Commissioners oath.

So help me God.”

If by reason of the challenges as aforesaid, the number of names so drawn out as aforesaid shall be reduced to less than five Peers and seven Members of the House of Commons respectively, then and in such case the said three Judges shall forthwith certify the same to the Speakers of the respective Houses of Parliament, who shall lay the same before the said Houses respectively; and the said Houses shall respectively proceed, within any of the next seven days on which the said Houses shall respectively sit for the dispatch of business, to choose, nominate, and appoint twenty-six Members of the House of Lords, and forty Members of the House of Commons, after the manner and course aforesaid, the lists of which said respective Members, so chosen and appointed, shall be transmitted to the Clerk of the Crown in his Majesty’s High Court of Chancery, or his deputy, and be inserted in a new Commission, to be issued in the manner hereinbefore and in the said former act directed: Provided always, that no day on which the House of Commons shall have adjourned, for want of the presence of a sufficient number of Members to execute the provisions of the several acts passed in the tenth and eleventh years of the reign of his present Majesty, to regulate the trials of Controverted Elections or returns of Members to serve in Parliament, shall be accounted one of the sitting days of the said House for any of the Purposes of this Act. s. 6. If challenger reduce the number to less than five Peers and seven Commons, new lists to be made out.

The said Special Commissioners to be appointed as aforesaid shall have full power and authority to hear and determine every such Information, and to pronounce Judgment thereon according to the effect of the judgment of the Common Law, upon convictions had and obtained according to the course of the Power of the Commissioners.

Common Law, for Extortion, or other Misdemeanor, and also to declare the party so convicted incapable of serving the King's Majesty, his heirs or successors, or the said United Company, in any capacity whatever; and such judgment, so pronounced by the said Special Commissioners as aforesaid, upon such Information, shall be good and effectual, and shall be conclusive, to all intents and purposes; and no Certiorari shall be granted for removing the proceedings of the said Special Commissioners on such Information into any Court whatever; and the proceedings of the said Special Commissioners shall not be impeached, or the validity thereof questioned, in any action or suit, or other proceeding, in any Court of Law or Equity. s. 7.

Ten Commissioners competent to act.

Provided always, that all and every the powers and authorities given and granted by the said recited Act, and by this present Act, unto the said Special Commissioners, shall and may be executed by or before any ten or more of them (of whom one of the said Three Judges shall always be one); and that no act done or executed by or before the said Commissioners, unless ten or more of the said Commissioners (of whom One of the said Three Judges shall be one) shall be present at the doing or executing thereof (save and except in the particular cases herein-after specially provided,) shall be valid or effectual; any thing in the said former Act contained to the contrary notwithstanding. s. 8.

Majority to determine, and the President to have a casting vote.

Provided also, that whenever the said Special Commissioners shall not concur in opinion upon any question or matter to be decided by or before them, every such question or matter shall be determined by the greater number of the said Commissioners who shall be then present, so that the number of Commissioners then present be not less than ten as aforesaid; and if the said Commissioners shall at any time be equally divided in opinion on any question or matter depending before them, the Judge then sitting as President shall have two voices, or the casting vote. s. 9.

If by death, or otherwise, the number should be reduced under ten, a new commission to be made out.

If any of the said Special Commissioners shall depart this life, or be excused from attending in the manner by this Act directed, before the said Commission shall have been fully executed, so that there shall not be a sufficient number of Commissioners to proceed in the due execution of such Commission, according to the true intent and meaning of this Act; or if all the said three Judges shall happen to die, or be excused from attending in the manner by this Act directed, whilst the said Commission shall be depending; then and in either of such

cases, and from thenceforth, the said Commission, and the force and effect thereof, shall cease, and a new Commission shall be awarded for hearing the matter of such information, for which such former Commission was issued, and the trial of such information shall begin *de novo*; save only and except with respect to the examinations or depositions of any witnesses (if any) which shall have been taken in writing under the said former Commission, which examinations or depositions shall and may be received and admitted as evidence under such new Commission. s. 10.

The said Special Commissioners shall severally attend in Court during the whole Trial for which they shall be appointed as aforesaid, and none of the said Commissioners shall in anywise absent himself from the same, (except as hereafter is provided); and the said Court shall at no time proceed in the said Trial until all the said Special Commissioners, not having obtained such leave of absence, or not having been excused as hereinafter is provided, shall be met and assembled; and if the said Special Commissioners (except as aforesaid) shall not all meet and assemble within the space of one hour after the time to which they shall have adjourned, such of them as shall be then present, or the major part of them, shall make an order for a further adjournment of the Trial, in which order the cause of such further adjournment shall be expressed, and a copy of such order, signed by the Register to the said Commissioners, shall be served upon or left at the usual or last place or places of abode of the said absent Commissioner or Commissioners respectively; and at such further adjourned meeting the cause of his or their absence shall be inquired into by the Special Commissioners who shall be then present, before the said Commissioners shall proceed to any other business; and if it shall not be made appear to the satisfaction of the said Commissioners, by facts specially stated, and verified before them upon oath (or, in the case of such facts being verified by a Peer of the Realm, then upon his honour), that such absent Commissioner or Commissioners was or were by sudden accident, or by necessity, prevented from attending at the said former sitting, it shall and may be lawful for the Special Commissioners then present, or the major part of them, to pass such censure upon such Commissioner or Commissioners who shall have been so absent as they shall think fit, and also to impose upon such Commissioner or Commissioners respectively, for such neglect of duty, or upon any Commissioner or Commissioners who shall

Commissioners to attend during the whole trial, unless absent by leave.

If all do not meet, the majority present may adjourn.

Cause of absence to be inquired into.

Absentees may be censured or fined, and disabled from acting.

How fines are to
be levied.

depart from the said Court during the sitting, and before an adjournment thereof, such fine or fines as the said Commissioners, or the greater number of them then present, shall think fit, so that no such fine shall exceed the sum of five hundred pounds; which fine or fines shall be forthwith estreated by one or more of the said three Judges into the Court of Exchequer, and the like process shall be awarded by the said Court of Exchequer for levying the said fine or fines for his Majesty's use, as is usually awarded for the levying of other fines estreated into the said Court of Exchequer; and the said Special Commissioners shall also have full power and authority to order or declare, that any Commissioner or Commissioners who shall be so censured, or on whom any such fine or fines shall be imposed, shall be disabled from acting in the farther execution of such Commission. s. 11.

Leave of absence
may be granted
to Commissioners,
who, however are
disqualified.

Provided always, that it shall and may be lawful for the said Commissioners, or the greater number of them, to grant Leave of Absence to any of the said Commissioners, upon proof, to their satisfaction, of sickness or other urgent occasion; and such of the said Commissioners who shall obtain Leave of Absence as aforesaid, and shall accordingly be absent during any part of such Trial, shall be no longer capable of acting under such Commission; any thing contained in the said former Act, or in this Act, to the contrary notwithstanding. s. 12.

During a trial
the Commissioners
not to adjourn
for more than
24 hours, except
on occasions
herein specified.

Provided also, that after the Trial of any Information shall have commenced and been begun by and before the said Special Commissioners, the said Commissioners shall sit every day, Sunday, Christmas day, and Good Friday only excepted; and the said Commissioners shall never adjourn for a longer time than twenty-four hours, unless a Sunday, Christmas day, or Good Friday, shall happen to intervene, in which case their adjournment shall not exceed twenty-four hours, exclusive of such Sunday, Christmas day, or Good Friday: provided also, that if the number of the said Special Commissioners capable of acting in the execution of such Commission, according to the directions of this Act, shall, by death or otherwise, be reduced to ten, and any of such ten Commissioners shall be prevented by sudden accident, or by necessity, from attending such Trial, the said other Commissioners, or the greater number of them, shall and may, at their discretion, adjourn and suspend the proceedings upon such Trial from time to time, as circumstances may require, so that any such adjournment shall not exceed three days, and the number of such successive adjournments

shall not, in the whole, exceed ten adjournments; any thing hereinbefore contained to the contrary notwithstanding. s. 13.

It shall and may be lawful to and for the said Special Commissioners to constitute and appoint such Clerks, Tipstuffs, Messengers, and other Officers, to attend upon them in the execution of their said Commission, and to do and perform all such matters and things as shall be ordered or given to them in charge by the said Commissioners, as the said Commissioners shall think fit; and such several Clerks and other Officers shall be diligently attendant upon and subject and obedient to the said Commissioners, and may be suspended, removed, or discharged, or be punished by fine or fines, to be imposed by the said Commissioners, for any neglect of duty or disobedience, at the discretion of the said Commissioners; which fines shall be estreated into his Majesty's Court of Exchequer, by one or more of the said three Judges, and shall and may be levied and recovered for his Majesty's use by the process of the said Court; and all and every of such Clerks and other Officers shall be paid by the parties informant or informants, and defendant or defendants, named in such information, the same or the like Fees and Allowances as the respective Officers attendant upon his Majesty's Court of King's Bench, upon Trials of Informations for Misdemeanors prosecuted in the said Court, are entitled to receive from the parties thereto respectively, according to the stations and duties of such officers respectively.

Commissioners may appoint Clerks, &c. who may be removed, &c.

How Clerks, &c. shall be paid.

s. 14.

Whenever an Information shall be exhibited in the said Court of King's Bench against any person or persons for the crime of Extortion or other Misdemeanor committed in the East Indies, in every such case, upon a Certificate from the Coroner and Attorney of our Lord the King (commonly called the Clerk of the Crown in the Court of King's Bench, or the Master of the Crown Office in the said Court), or any or either of his sworn Clerks in the said Office, that such Information hath been filed (which Information, in case the same shall be filed when the Court of King's Bench shall not be sitting, shall be considered as filed on the last day of the preceding Term), it shall and may be lawful to and for the Lord Chief Justice, or any of the other Judges of the said Court, at the instance of such Prosecutor or Prosecutors, to issue his Warrant, under his Hand and Seal, directed to all Sheriffs, Mayors, Bailiffs, Constables, and other Peace Officers, and to such other person or persons as shall be named for that purpose by such Prose-

Court of King's Bench may issue warrants for apprehending persons accused of extortion, &c. in the East Indies.

entor or Prosecutors, for apprehending and attaching the Party or Parties, Defendant or Defendants to such Information; and if such Party or Parties shall escape or go into, reside, or be in any place within that part of Great Britain called Scotland, it shall and may be lawful for the Sheriff, or Steward Depute or Substitute, or any Justice of the Peace of the County or place into which such Party or Parties shall escape or go, or in which he or they shall reside or be, to indorse his name on the said Warrant; which Warrant so indorsed shall be a sufficient authority to all persons to whom such Warrant was originally directed, and also to all Sheriffs' Officers, Stewards' Officers, Constables, and other Peace Officers of the said County or place, by the Sheriff, Steward Depute or Substitute, or Justice of the Peace whereof such Warrant shall be so indorsed, to execute the said Warrant in the same County or place, by apprehending the Party or Parties against whom such Warrant shall have been granted, and to convey and bring such Party or Parties in safe custody before the said Court of King's Bench, or before the Lord Chief Justice or any of the Judges of the said Court, to be further dealt with according to the directions of the said former act and this present act. s. 15.

Parties informed
against to be
committed, or to
find bail.

It shall and may be lawful to and for the Party or Parties against whom any such Information shall be exhibited as aforesaid (not being attached), to surrender himself or themselves in the said Court of King's Bench at any time during the sitting of the said Court, to be dealt with according to the directions of the said former Act and this present Act, or if the said Court shall not be sitting, unto the said Lord Chief Justice, or any other of the Judges of the said Court; and that when and so often as any such Party or Parties shall surrender himself or themselves out of Court as aforesaid, or shall, during any vacation, or when the said Court shall not be sitting, be attached and brought before the said Lord Chief Justice, or other Judge, under any Warrant or Attachment issued by virtue of the said former Act or this present Act, the said Lord Chief Justice, or other Judge, shall and may order such Party or Parties to stand committed to the Prison of the Marshalsea, or to the Tower of London, or to the Gaol of Newgate, at the discretion of the said Lord Chief Justice or other Judge, there to be detained until he or they shall be delivered by due course of Law, or until he or they, together with two sufficient Sureties, shall have entered into a Recognizance unto the King's Majesty, his Heirs and Successors, in such sum of money, and with such condi-

tion for his appearance, and for submitting to the judgment to be pronounced in and upon such Information, as the said Lord Chief Justice or other Judge shall in his discretion order and direct: Provided always, that it shall and may be lawful for the said Commissioners to order any person in custody under the provisions of this Act, to be from time to time brought up and remanded in such manner as to the said Commissioners shall seem meet. s. 16.

When and so often as any party or parties, against whom any such Information as aforesaid shall be exhibited, shall not be attached, or shall not have surrendered as aforesaid, and proof shall be made, by any Affidavit or Affidavits, to the satisfaction of the said Court of King's Bench, that such party or parties is or are beyond the Seas, or that upon inquiry at his or their usual place or places of abode, or last known place or places of residence in Great Britain, he or they could not be found, and that there is just ground to believe that such party or parties is or are gone, or doth or do continue out of the Realm, or doth or do otherwise abscond, to avoid being attached to answer the Matters charged in and by such Information; then and in such case the said Court shall and may make a Rule or Order, directing and appointing such party or parties to surrender himself or themselves in the said Court, or to the Lord Chief Justice, or one of the other Judges of the said Court, at a certain day in and by such Rule or Order to be limited and expressed at the discretion of the said Court; and a copy of such Rule or Order shall, within Twenty Days after the making thereof, be inserted Three several times in the London Gazette; and another copy of such Rule or Order shall, within the time aforesaid, be affixed in some conspicuous and public place in the India House: and if the said party or parties shall not surrender himself or themselves respectively, according to the tenor of such Rule or Order, within the Time therein to be limited for that purpose, or within such further Time as the said Court shall appoint or direct (which the said Court is hereby empowered to do, on application being made on the behalf of such party or parties, if the said Court shall see cause), then, on proof being made of the publication of such Rule or Order in manner aforesaid, it shall and may be lawful for his Majesty's Attorney General, or other Prosecutor, by Rule and Leave of the said Court (which Rule and Leave the said Court is hereby empowered to grant), to cause an Appearance, and the

Mode of proceeding when parties abscond.

cutor or Prosecutors, for apprehending and attaching the Party or Parties, Defendant or Defendants to such Information; and if such Party or Parties shall escape or go into, reside, or be in any place within that part of Great Britain called Scotland, it shall and may be lawful for the Sheriff, or Steward Depute or Substitute, or any Justice of the Peace of the County or place into which such Party or Parties shall escape or go, or in which he or they shall reside or be, to indorse his name on the said Warrant; which Warrant so indorsed shall be a sufficient authority to all persons to whom such Warrant was originally directed, and also to all Sheriffs' Officers, Stewards' Officers, Constables, and other Peace Officers of the said County or place, by the Sheriff, Steward Depute or Substitute, or Justice of the Peace whereof such Warrant shall be so indorsed, to execute the said Warrant in the same County or place, by apprehending the Party or Parties against whom such Warrant shall have been granted, and to convey and bring such Party or Parties in safe custody before the said Court of King's Bench, or before the Lord Chief Justice or any of the Judges of the said Court, to be further dealt with according to the directions of the said former act and this present act. s. 15.

Parties informed
against to be
committed, or to
find bail.

It shall and may be lawful to and for the Party or Parties against whom any such Information shall be exhibited as aforesaid (not being attached), to surrender himself or themselves in the said Court of King's Bench at any time during the sitting of the said Court, to be dealt with according to the directions of the said former Act and this present Act, or if the said Court shall not be sitting, unto the said Lord Chief Justice, or any other of the Judges of the said Court; and that when and so often as any such Party or Parties shall surrender himself or themselves out of Court as aforesaid, or shall, during any vacation, or when the said Court shall not be sitting, be attached and brought before the said Lord Chief Justice, or other Judge, under any Warrant or Attachment issued by virtue of the said former Act or this present Act, the said Lord Chief Justice, or other Judge, shall and may order such Party or Parties to stand committed to the Prison of the Marshalsea, or to the Tower of London, or to the Gaol of Newgate, at the discretion of the said Lord Chief Justice or other Judge, there to be detained until he or they shall be delivered by due course of Law, or until he or they, together with two sufficient Sureties, shall have entered into a Recognizance unto the King's Majesty, his Heirs and Successors, in such sum of money, and with such condi-

tion for his appearance, and for submitting to the judgment to be pronounced in and upon such Information, as the said Lord Chief Justice or other Judge shall in his discretion order and direct: Provided always, that it shall and may be lawful for the said Commissioners to order any person in custody under the provisions of this Act, to be from time to time brought up and remanded in such manner as to the said Commissioners shall seem meet. s. 16.

When and so often as any party or parties, against whom any such Information as aforesaid shall be exhibited, shall not be attached, or shall not have surrendered as aforesaid, and proof shall be made, by any Affidavit or Affidavits, to the satisfaction of the said Court of King's Bench, that such party or parties is or are beyond the Seas, or that upon inquiry at his or their usual place or places of abode, or last known place or places of residence in Great Britain, he or they could not be found, and that there is just ground to believe that such party or parties is or are gone, or doth or do continue out of the Realm, or doth or do otherwise abscond, to avoid being attached to answer the Matters charged in and by such Information; then and in such case the said Court shall and may make a Rule or Order, directing and appointing such party or parties to surrender himself or themselves in the said Court, or to the Lord Chief Justice, or one of the other Judges of the said Court, at a certain day in and by such Rule or Order to be limited and expressed at the discretion of the said Court; and a copy of such Rule or Order shall, within Twenty Days after the making thereof, be inserted Three several times in the London Gazette; and another copy of such Rule or Order shall, within the time aforesaid, be affixed in some conspicuous and public place in the India House: and if the said party or parties shall not surrender himself or themselves respectively, according to the tenor of such Rule or Order, within the Time therein to be limited for that purpose, or within such further Time as the said Court shall appoint or direct (which the said Court is hereby empowered to do, on application being made on the behalf of such party or parties, if the said Court shall see cause), then, on proof being made of the publication of such Rule or Order in manner aforesaid, it shall and may be lawful for his Majesty's Attorney General, or other Prosecutor, by Rule and Leave of the said Court (which Rule and Leave the said Court is hereby empowered to grant), to cause an Appearance, and the

Mode of proceeding when parties abscond,

Plea of Not Guilty, to be entered for such party or parties charged by the said Information ; and the said Information shall thereupon proceed as if the party or parties had appeared and pleaded Not Guilty thereto. s. 17.

Notice of trial to be given.

Provided always, that in all cases where the Plea of Not Guilty shall be entered for the Party or Parties Defendant or Defendants to any Information, by the Prosecutor or Prosecutors thereof, by virtue and according to the directions of this Act, it shall be sufficient, in order to the hearing and determining of such Information, for such Prosecutor or Prosecutors to give Fourteen Days Notice of the Day appointed for the Trial thereof, by Advertisement in the London Gazette; any Law, Usage, or Practice to the contrary notwithstanding. s. 18.

Judgment to be pronounced by the Commissioners, though the parties do not appear.

If any Party or Parties charged by any such Information as aforesaid shall make default in his or their personal Appearance at the pronouncing of Judgment in the Matter of such Information, by and before the said Special Commissioners ; it nevertheless shall and may be lawful for the said Commissioners to pronounce Judgment upon such Information, in the same manner as if the said Party or Parties was or were personally present ; and every such Judgment shall be as valid, effectual, and conclusive, to all intents and purposes whatever, as if the said party or parties had been personally present at the pronouncing thereof ; any Law or Usage to the contrary notwithstanding. s. 19.

Parties during trial may be committed.

Whenever the Party or Parties charged by any such Information shall personally appear before the said Special Commissioners on the Hearing or Trial thereof, it shall and may be lawful to and for the said Special Commissioners, at any time during the course of such Trial, to order such Party or Parties to stand committed to the Prison of the Marshalsea, or to the Tower of London, or to the Gaol of Newgate, at the discretion of the said Special Commissioners, there to be detained until Judgment shall be pronounced in the Matter of the said Information, unless he or they shall be previously delivered or discharged by the Rule or Order of the said Commissioners. s. 20.

Disturbers of the Court may also be committed.

If any Person or Persons shall be guilty of any Contempt or Disturbance in the Court of the said Commissioners during the sitting of the Court, it shall and may be lawful to and for the said Commissioners to order such Person or Persons to be taken into Custody by any Officer or Officers to be appointed by the said Commissioners to attend the said Court, and to stand com-

mitted to the Prison of the Marshalsea or the Gaol of Newgate, at their discretion, to be there kept for such Time as the said Commissioners shall order and direct. s. 21.

The Judgments which shall be made and pronounced by the said Special Commissioners, according to the directions and under the authority of the said recited Act and this present Act, shall, when and so soon as the said Judgments and other Proceedings shall have been delivered over, by the Register to the said Commissioners, to the Clerk of the Crown in the said Court of King's Bench (otherwise called the Coroner and Attorney of our Lord the King, or the Master of the Crown Office in the said Court), in the manner directed by the said former Act, be executed and enforced by the Authority of the said Court of King's Bench; and such Proceedings to Outlawry, and other Proceedings against the several and respective Defendants thereto, shall and may be had thereon in the like manner as according to the course and practice of the said Court may be had upon Judgment made and pronounced by the said Court; and the Judgments of the said Special Commissioners shall be final and conclusive to all intents and purposes whatever, and shall not be arrested, defeated, reversed or avoided, or liable to be arrested, defeated, reversed or avoided, for or by reason or means of any Error, Defect, or Want of Form in any such Judgment, or in the Information whereon the same shall be given or pronounced, or in the Award of any Process thereon, or in the Record of the Issue for the Trial thereof; any Law, Statute, or Usage to the contrary notwithstanding. s. 22.

Judgments of the Commissioners to be executed by the Court of King's Bench, and to be final.

Provided always, and be it enacted and declared, that nothing in the said recited Act or in this present Act contained shall extend or be construed to extend to deprive the Prosecutor or Prosecutors of any such Information as aforesaid, or the Party or Parties, Defendant or Defendants thereto, of any Right, Liberty, Benefit, or Advantage, to which, by the Law of the Land, or the Rules of Practice of the Court of King's Bench, such Prosecutor or Prosecutors, Defendant or Defendants, is or are, or would, could, or might have been entitled upon any other Information of a like nature depending in the said Court of King's Bench, before Issue in Fact joined therein; nor to prevent or restrict the said Court of King's Bench from exercising any such Power or Authority as would, could, or might have been legally exercised by the said Court of King's Bench in the matter of any such Information, before Issue in Fact joined therein, if the said former Act or this present Act had

This or the recited Act not to deprive persons of any right they are entitled to by law, &c.

Mode of proceeding where demurrers are entered.

not been made; any thing in the said former Act or this present Act contained to the contrary notwithstanding. s. 23.

Provided also, that if the Party or Parties charged by any such Information as aforesaid shall enter a Demurrer to such Information, and such Demurrer shall be over-ruled by the said Court of King's Bench, such Party or Parties shall, within Eight Days next after the said Court shall have given Judgment on such Demurrer, unless a Writ of Error shall be brought thereon, and then within Eight Days next after such Judgment shall be affirmed or such Writ of Error shall be non-pros'd, enter the Plea of Not Guilty to such Information, or, in default thereof, the said Plea of Not Guilty shall and may be entered for and in the name or names of such Party or Parties by his Majesty's Attorney General or other Prosecutor, and the said Information shall proceed in the like manner as if no Demurrer had been entered thereto; any Law, or the Usage or Practice of the said Court to the contrary notwithstanding s. 24.

Informations may be determined in the Court of King's Bench.

Provided also, and be it enacted and *declared*, that if his Majesty's Attorney General, or other prosecutor or prosecutors of any such Information, shall be desirous of having the same proceeded in, tried, and determined in the said Court of King's Bench, and shall move the said Court for that purpose, then and in every such case the said Court shall grant a Rule or Order for retaining such Information in the said Court, and the said Information shall be accordingly retained by the said Court of King's Bench, and shall be heard, tried, adjudged, and determined by the said Court of King's Bench, in such and the same manner, to all intents and purposes, as an Information of the like nature would, could, or might have been proceeded in, heard, tried, and determined, in and by the said Court, in case the said former Act or this present Act had not been made; any thing in the said former Act or this present Act contained to the contrary notwithstanding. s. 25.

How Fines, &c. are to be recovered.

Whenever the party or parties, against whom any such Information shall have been exhibited as aforesaid, shall be adjudged to pay a Fine or Fines to his Majesty, his Heirs or Successors; and also whenever any Recognizance or Recognizances entered into under the said former Act or this present Act shall become forfeited, the said Court of King's Bench, or in case the said Court shall not be then sitting, the Lord Chief Justice of the same Court, shall and may forthwith, at the instance of his Majesty's Attorney General or other prosecutor, deliver to the Lord Chief Baron, or any other of the Barons of the Court of Ex-

chequer, an Estreat of the Fine or Fines, Recognizance or Recognizances, so adjudged or become forfeited respectively as aforesaid; and the said Lord Chief Baron, or other of the said Barons, shall thereupon, at the requisition of the said Attorney General or other prosecutor, authorize and direct the proper Officer of the same Court to award, and such Officer shall accordingly forthwith award, under the Seal of the same Court, one or more Special Writ or Writs of *Extendi facias* and *Capias*, or other Special Process, against the said party or parties adjudged to pay such Fine or Fines, or the principal or principals and sureties in such Recognizance or Recognizances respectively, and their lands, tenements and hereditaments, goods, chattels and effects, directed into such County or Counties, Cities, Places, or Liberties, to the proper Sheriffs or other Officers of the same respectively, for the due execution thereof, as the said Attorney General or other prosecutor shall desire or require in that behalf; and if such party or parties, or such principal or principals, and sureties, or any of them, shall have, or be seised or possessed of, or entitled to, any lands, tenements or hereditaments, goods, chattels, estate or effects, situate, lying, or being within that part of Great Britain called Scotland, or shall be resident in that part of the said United Kingdom, then and in either of such cases his Majesty's Court of Exchequer in Scotland, or, when the said Court shall not be sitting, the Lord Chief Baron or any other of the Barons of the said Court of Exchequer in Scotland, upon a Copy or Transcript of the Estreat of such Fine or Fines, Recognizance or Recognizances, being sent or transmitted into the same Court, or delivered to the said Lord Chief Baron or any other of the Barons of the same Court, from and under the Seal of the Court of Exchequer in England, or under the hand and seal of the Lord Chief Baron or any other of the Barons thereof, (and which Copy or Transcript the said Court of Exchequer in England, or, when the said Court shall not be sitting, the Lord Chief Baron or any other of the Barons of the same Court, is and are hereby required, at the instance of his Majesty's Attorney General or other prosecutor, to send and transmit accordingly), shall and may forthwith, at the instance of the said Attorney General or other prosecutor, carry on such proceedings, and award such and the like Process and Processes as is and are competent by the Law of that part of Great Britain called Scotland for Recovery of Debts due to the Crown. s. 26.

If it shall at any time be made to appear, to the satisfaction of the said Court of Exchequer in England, at the instance of His Majesty's Attorney General or other Prosecutor, by motion.

Mode of recovering Fines from property in the East Indies,

when the effects
in Britain are
insufficient.

in the said Court on his or their behalf, that such party or parties, principal or principals, or sureties as aforesaid, or any of them, have no lands, tenements, or other estate or effects in Great Britain, or that the same (if any) are not sufficient to answer the sum or sums forfeited by such recognizance or recognizances, or due for such fine or fines respectively, and that such party or parties, principal or principals, or sureties, or any of them, shall have, or be seised or possessed of, or entitled to any lands, tenements, or hereditaments, goods, chattels, debts, estate, or effects, within any of the British Possessions in the East Indies respectively, (the said sum or sums, fine or fines, not being paid and satisfied) then, and in every such case the said Court of Exchequer shall and may, by rule or order of the said Court, cause one or more transcript or transcripts of the estreats of the said recognizance or recognizances, fine or fines, to be sealed with the seal of the said Court, or to be otherwise attested as the said Court shall direct, and the same, so sealed or attested, shall be closed up under the seals of any two of the Barons of the said Court, directed to the Supreme Court of Judicature in Bengal, and to the Mayor's Courts at Madras and Bombay, or to any or either of the said Courts, as the case shall or may require; and the same shall be delivered by the said Barons, or one of them, to such agent or agents as the prosecutor or prosecutors shall nominate or appoint for that purpose; which agent or agents (or, in the case of his or their death, the person into whose hands the same shall come,) shall deliver such transcript or transcripts to one of the Judges of the said Supreme Court, or Mayor's Courts respectively, as the case may be or require, and make oath that he or they did receive the same from the hands of one of the said Barons (or in what other manner the same came into his or their hands), and that the same hath not or have not been opened or altered since he or they so respectively received the same, (which oath any of the said Judges of any of the said Courts in India are hereby authorized and required to administer); and thereupon such transcript or transcripts shall be filed and recorded in such of the said Courts in India to which the same shall be so directed, as the case may require; and upon motion to be made in such Courts or Court for that purpose, for and on the behalf of such prosecutor or prosecutors, the like process and proceedings shall and may, from time to time, be awarded and had, by and in the said Supreme Court of Judicature, and the said Mayor's Courts at Madras and Bombay respectively, or any or either of them against the lands, tenements or hereditaments, goods, chattels,

debts, estate and effects, of the said party or parties, principal or principals, and sureties, within the limits of the jurisdictions of such respective Courts in the East Indies, as might or could have been awarded or had in the said Court of Exchequer in England against the lands, tenements, hereditaments, goods, chattels, debts, estates, and effects of the same party or parties, principal or principals, or sureties, in England; and the same shall be valid and effectual, any law, usage, or custom to the contrary notwithstanding. s. 27.

The 28th section recites, that it is by the said recited Act enacted [s. 78], that “in all cases of Informations laid or exhibited by virtue of the said Act in the Court of King’s Bench, for Misdemeanors or offences committed in India, it shall be lawful for the said Court to award a writ or writs of Mandamus to the Chief Justice and Judges of the Supreme Court of Fort William, or the Judges of the Mayor’s Court of any of the British settlements in India, as the case may require, who are thereby respectively authorized and required accordingly to hold a Court for the examination of witnesses, and receiving other proofs concerning the matters charged in such Informations respectively; and that such examination shall be then and there openly taken, and reduced into writing, in manner therein mentioned, and sent to his Majesty, in his Court of King’s Bench, closed up, and under the seals of two or more of the Judges of the said Supreme Court; and that one or more of the Judges of the said Supreme Court shall deliver the same to the agent or agents of the party or parties requiring the same, which said agent or agents (or, in case of his or their death, the person into whose hands the same shall come,) shall deliver the same to one of the Clerks in Court of his Majesty’s Court of King’s Bench, in the public office, and make oath that he received the same from the hands of one or more of the Judges of such Court in India, (or in what manner the same came into his hands), and that the same hath not been opened or altered since he so received the same: and that a doubt may arise whether such examinations as may be taken by the Judges of the Mayor’s Court in any of the British Settlements in India, by force and virtue of the said Act, may be lawfully sent, closed up, under the seals of the same Judges, and whether any one or more of the same Judges is or are empowered to deliver the same to the agent or agents of the party requiring the same;” and then enacts, that every examination which shall or may be had or taken by the Judges of the Mayor’s Court of any of the British Settlements in India,

Recital of
24 G. 3. c. 25.
s. 78.

Examinations in
India to be seal-
ed up and given
to the agents of

the parties, to be delivered to the Clerks of the King's Bench.

by force and virtue of the said Act (being reduced into writing as in the said Act is directed or mentioned), shall be sent to his Majesty in his Court of King's Bench, closed up and under the Seals of two or more of the Judges of the Mayor's Court of any of the British Settlements in India, and one or more of the Judges of the same Court shall deliver the same to the agent or agents of the party or parties requiring the same; which said agent or agents (or in case of his or their death, the person into whose hands the same shall come,) shall deliver the same to one of the clerks of His Majesty's Court of King's Bench, in the public office, and make such or the like oath as is in and by the said Act directed and prescribed; any thing in the said Act contained to the contrary notwithstanding.

Persons resident in India amenable to the Courts there.

As well the Servants of the said United Company as all other of his Majesty's Subjects resident or to be resident in India, shall be and are hereby declared to be amenable to the Courts of Oyer and Terminer and Gaol Delivery, and Courts of General or Quarter Sessions of the Peace, in any of the British Settlements in India, for all Murders, Felonies, Homicides, Manslaughters, Burglaries, Rapes of Women, Perjuries, Confederacies, Riots, Routes, Retainings, Oppressions, Trespasses, Wrongs, and other Misdemeanors, Offences, and Injuries whatsoever, by them done, committed or perpetrated, or to be by them hereafter done, committed or perpetrated, in any of the Countries or Parts of Asia, Africa, or America, beyond the Cape of Good Hope, to the Streights of Magellan, within the limits of the exclusive trade of the said United Company, whether the same shall have been done, committed or perpetrated, or shall hereafter be done, committed or perpetrated, against any of his Majesty's Subjects, or against any other person or persons whatever. s. 29.

So much of recited Act (ss. 55 to 61.) as relates to delivery of inventories of effects, &c. repealed.

So much of the said recited Act as requires or directs any person or persons now being, or who may hereafter be in the service of the said United Company in India, to deliver any Particular or Inventory of his or their Lands, &c. and other Real and Personal Estate and Property, or as subjects any such person or persons to any pain, &c. for any Neglect or Omission therein, or for any untrue specification of his or their Estates or Properties, or as directs any Allowance or Reward to be made or given to any person making discovery of any Estate or Property concealed, or not specified, disclosed, or described by any such Particular or Inventory as aforesaid, shall be and the same is hereby repealed. s. 31. Public Act. s. 39.

The Statute 13 G. 3. c. 63. "for establishing Regulations for the better management of the Affairs of the East India Company," directs (s. 6.) that upon every Election to be made of any Member of the Court of Directors, and upon every Ballot to be taken at any General Court of the said Company, every Member or Proprietor of the said Company shall, before admitted to vote at such Election or in such General Court, take the Oath hereafter mentioned before Two or more Directors of the said Company, who are empowered to administer such Oath as is set forth in the Act, (or Affirmation being one of the people called Quakers); and then enacts, that "in case any person taking the Oath or Affirmation hereby appointed, shall thereby commit wilful Perjury, and be thereof convicted, and if any Person do unlawfully or corruptly procure or suborn any other person to take the said Oath or Affirmation in order to vote, whereby he or she shall commit such wilful Perjury, and shall be thereof convicted, he, she, and they, for every such Offence, shall incur such Pains and Penalties as are in and by 5 Eliz. c. 9. and 2 G. 2. c. 25. directed to be inflicted for Offences committed contrary to the said Acts.

Proprietors of East India stock guilty of perjury, to be punished as under 5 Eliz. c. 9. & 2 G. 2. c. 25.

Elections.

Whereas by the ancient Common Law of this Land all Elections ought to be free: and whereas by an Act passed [3 Ed. 1. c. 5.] it is commanded upon great Forfeiture, that no man, by force of arms, nor by malice or menacing, shall disturb any to make free Election: and forasmuch as the Freedom of Elections of Members to serve in Parliament is of the utmost consequence to the preservation of the Rights and Liberties of this Kingdom: and it hath been the usage and practice to cause any Regiment, Troop, or Company, or any number of Soldiers which hath been quartered in any City, Borough, Town, or Place, where any Election of Members to serve in Parliament hath been appointed to be made to remove, and continue out of the same during the time of such Election, except in such particular cases as are herein-after specified. To the end, therefore, that the said usage and practice may be settled and established for the future, be it enacted, that when and as often as any Election of any Peer or Peers to represent the Peers of Scotland in Parliament, or of any Member or Members to serve in Parliament, shall be appointed to be made, the Secretary at War for the time being, or in case there shall

On notice of the election of a Scotch Peer, or a Member of Parliament, the Secretary at War, or person officiating in his

place, shall send orders for removing soldiers to a certain distance from the place of election.

be no Secretary at War, then such person who shall officiate in the place of the Secretary at War, shall and is hereby required, in some convenient time before the day appointed for such Election, to issue and send forth proper orders in writing for the removal of every such Regiment, Troop, or Company, or other number of Soldiers, as shall be quartered or billeted in any such City, Borough, Town, or Place, one day at the least before the day appointed for such Election, to the distance of two or more miles from such City, Borough, Town, or Place as aforesaid, until one day at the least after the Poll to be taken at such Election shall be ended, and the Poll Books closed. 8 G. 2, c. 30. s. 1.

The Secretary at War, &c. not liable, unless notice of a vacancy be given to him by the Clerk of the Crown.

Provided always, that the Secretary at War, or in case there shall be no Secretary at War, then such person who shall officiate in the place of the Secretary at War, shall not be liable to any forfeiture or incapacity for not sending such order as aforesaid, upon any Election to be made of a Member to serve in Parliament on a vacancy of any seat there, unless notice of the making out any new Writ for such Election shall be given to him by the Clerk of the Crown in Chancery, or other Officer making out any new Writ for such Election, which notice he is hereby directed and required to give with all convenient speed after making out the said Writ. s. 5.

Secretary at War, &c. neglecting, &c. so to do, shall forfeit his office and be further disabled.

In case the Secretary at War for the time being, or such person who shall officiate in the place of the Secretary at War, shall neglect or omit to issue or send forth such orders as aforesaid, according to the true intent and meaning of this Act, and shall be thereof lawfully convicted, upon an Indictment to be preferred at the next Assises or Sessions of Oyer and Terminer, to be held for the County where such offence shall be committed, or on an Information to be exhibited in the Court of King's Bench within six months after such offence committed, such Secretary at War, or person who shall officiate in the place of the Secretary at War, shall for such offence be discharged from the said respective offices, and shall from thenceforth be utterly disabled and made incapable to hold any office or employment, civil or military, in his Majesty's service. s. 2. See ante, s. 5.

Act shall not extend to Westminster or Southwark, or to the Guards of the King or Royal Family, attendant on them:

Nothing in this Act shall extend, or be construed to extend, to the City and Liberty of Westminster, or the Borough of Southwark, for and in respect of the Guards of his Majesty, his Heirs or Successors, nor to any City, Borough, Town, or Place where his Majesty, his Heirs or Successors, or any of the Royal Family, shall happen to be or reside at the time of any such

Election as aforesaid, for or in respect of such number of Troops or Soldiers only as shall be attendant as Guards to his Majesty, his Heirs or Successors, or to such other person of the Royal Family as is aforesaid; nor to any Castle, Fort, or Fortified Place where any Garrison is usually kept, for or in respect of such number of Troops or Soldiers only whereof such Garrison is composed. s. 3. nor to fortified places;

Provided likewise, that nothing in this Act shall extend, or be construed to extend, to any Officer or Soldier who shall have a right to vote at any such Election as aforesaid, but that every such Officer and Soldier may freely, and without interruption, attend and give his Vote at such Election. s. 4. nor to officers or soldiers, having a right to vote at such election.

England.

It is hereby declared and enacted, that in all cases where the Kingdom of *England*, or that part of *Great Britain* called England, hath been or shall be mentioned in any Act of Parliament, the same has been and shall from henceforth be deemed and taken to comprehend and include the Dominion of Wales, and Town of Berwick-upon-Tweed. 20 G. 2. c. 42. s. 3. The term *England* shall include Wales and Berwick-upon-Tweed.

English Language.

Whereas many and great mischiefs do frequently happen to the subjects of this Kingdom from the proceedings in Courts of Justice being in an unknown Language, those who are summoned and impleaded having no knowledge or understanding of what is alleged for or against them in the pleadings of their Lawyers and Attornies, who use a character not legible to any but persons practising the Law; to remedy these great mischiefs, and to protect the lives and fortunes of the subjects of that part of Great Britain called England more effectually than heretofore, from the peril of being ensnared or brought in danger by forms and proceedings in Courts of Justice in an unknown Language, be it enacted, that from and after 25th March 1733, all Writs, Process and Returns thereof, and Proceedings thereon, and all Pleadings, Rules, Orders, Indictments, Informations, Inquisitions, Presentments, Verdicts, Prohibitions, Certificates, and all Patents, Charters, Pardons, Commissions, Records, Judgments, Statutes, Recognizances, Bonds, Rolls, Entries, Fines and Recoveries, and all All Law proceedings shall be in the English tongue.

Proceedings relating thereunto, and all Proceedings of Court Leets, Courts Baron, and Customary Courts, and all Copies thereof, and all Proceedings whatsoever in any Courts of Justice within that part of Great Britain called England, and in the Court of Exchequer in Scotland, and which concern the Law and Administration of Justice, shall be in the English Tongue and Language only, and not in Latin or French, or any other Tongue or Language whatsoever, and shall be written in such a common legible hand and character as the Acts of Parliament are usually engrossed in, and the lines and words of the same to be written at least as close as the said Acts usually are, and not in any hand commonly called Court Hand, and in words at length, and not abbreviated; any Law, Custom, or Usage heretofore to the contrary hereof notwithstanding: And all and every person or persons offending against this act shall, for every such offence, forfeit and pay the sum of Fifty Pounds, to any person who will sue for the same by action of Debt, &c. or Information, in any of the Courts of Record in Westminster Hall. 4 G. 2. c. 26. s. 1.

Penalty on persons offending.

Except certificates of proceedings in the Court of Admiralty.

Nothing in this act, nor any thing herein contained, shall extend to certifying beyond the Seas any case or proceedings in the Court of Admiralty, but that in such cases the Commissions and proceedings may be certified in Latin, as formerly they have been. s. 3.

The stat. 4 G. 2. c. 16. shall not extend to the Court of the Receipt of the Exchequer.

The Statute 6 G. 2. c. 6. reciting the above Statute, and that "a doubt may arise, whether the proceedings in the Court of the Receipt of his Majesty's Exchequer are or may be comprehended or included within the said act, or any general words therein contained," for obviating the said doubts *declares* and enacts, that the said act, or any thing therein contained, shall not extend or be construed, deemed, or taken to extend to the said Court of the Receipt of his Majesty's Exchequer, or to any proceedings therein, or to any members or branches thereof; and s. 2. directs, that the business of the said Court shall be carried on according to the usual course and ancient method and practice thereof, as if the said Act had never been made.

Escapes and Prison Breach.

§ 1. *Escapes.*

§ 2. *Prison Breach.*

§ 1. *Escapes.*

The Statute 16 G. 2. c. 31. "for the further punishment of persons who shall aid or assist Prisoners to attempt to escape out of lawful custody," enacts, that if any person shall, after 24th June 1748, by any means whatsoever, be aiding or assisting to any Prisoner to attempt to make his or her Escape from any Gaol, although no Escape be actually made, in case such Prisoner then was attainted or convicted of Treason or any Felony, except Petty Larceny, expressed in the warrant of commitment or detainer, every person so offending, and being thereof lawfully convicted, shall be deemed and adjudged guilty of Felony, and shall be transported to one of his Majesty's Colonies or Plantations in America, for the term of seven years; and in case such Prisoner then was convicted of, committed to, or detained in any Gaol for Petty Larceny, or any other Crime not being Treason or Felony, expressed in the warrant of his or her commitment or detainer as aforesaid, or then was in Gaol upon any process whatsoever, for any debt, damages, costs, sum or sums of money, amounting in the whole to the sum of one hundred pounds; every person so offending as aforesaid, and being thereof lawfully convicted, shall be deemed and adjudged to be guilty of a Misdemeanor, for which he or she shall be liable to a Fine and Imprisonment. s. 1.

Persons assisting prisoners committed for felony or treason, to escape from any Gaol, &c. shall be guilty of felony, and transported for seven years.

In what cases aiding Escapes shall be a misdemeanor only.

If any person shall, from and after the said 24th June 1748; convey or cause to be conveyed into any Gaol or Prison any Vizer or other Disguise, or any Instrument or Arms, proper to facilitate the Escape of Prisoners, and the same shall deliver or cause to be delivered to any Prisoner, in any such Gaol, or to any other person there, for the use of any such Prisoner, without the consent or privity of the Keeper or Under Keeper of any such Gaol or Prison, every such person, although no Escape or Attempt to escape be actually made, shall be deemed to have delivered such Vizer or other Disguise, Instrument or Arms, with an Intent to aid and assist such Prisoner to escape or attempt to escape; and in case such Prisoner was then attainted or convicted of Treason or any Felony, except Petty Larceny, or lawfully committed or detained in any such

Persons conveying to prisoners any disguise or instruments, to facilitate escape of prisoners committed for treason or felony, shall be guilty of felony.

In other cases,
only a Misdemeanor.

Gaol for Treason or any Felony, except Petty Larceny, expressed in the warrant of commitment or detainer; every person so offending, and being thereof lawfully convicted, shall in like manner be deemed and adjudged guilty of Felony, and shall be transported to one of his Majesty's Colonies or Plantations in America, for the term of seven years: But in case the Prisoner to whom, or for whose use, such Vizer or Disguise, Instrument or Arms, shall be so delivered, then was convicted, committed, or detained for Petty Larceny, or any other crime not being Treason or Felony, expressed in the warrant of commitment or detainer, or upon any process whatsoever for any debt, damages, costs, sum or sums of money, amounting in the whole to the sum of one hundred pounds; every such person so offending, and being thereof lawfully convicted, shall be deemed and adjudged to be guilty of a Misdemeanor, for which he or she shall be in like manner liable to a Fine and Imprisonment. s. 2.

Persons rescuing
offenders from
Constables, &c.
guilty of felony.

If any person shall, from and after the said 24th June 1743, aid or assist any Prisoner to attempt to make his or her Escape from the Custody of any Constable, Headborough, Tithingman, or other Officer or person who shall then have the lawful charge of such Prisoner, in order to carry him or her to Gaol, by virtue of a warrant of commitment for Treason or any Felony (except Petty Larceny), expressed in such warrant; or if any person shall be aiding or assisting to any Felon to attempt to make his escape from on board any Boat, Ship, or Vessel carrying Felons for Transportation, or from the Contractor for the Transportation of such Felons, his Assigns or Agents, or any other person to whom such Felons shall have been lawfully delivered in order for Transportation, then every person so offending, and being lawfully convicted thereof, shall be deemed and adjudged to be guilty of Felony, and shall be transported to one of his Majesty's Colonies or Plantations in America for the term of seven years. s. 3.

Limitation of
prosecutions.

Provided and be it enacted, that there shall be no Prosecution for any of the said Offences, unless such Prosecution be commenced within one year after such Offence committed. s. 4.

Punishment of
such offenders
returning from
transportation.

If any person who shall be ordered for Transportation in pursuance of this Act, shall return from Transportation, or be at large in any part of Great Britain without some lawful cause before the expiration of the term for which he or she shall have been ordered to be transported, every such person shall be liable to the same Punishment, and to the like methods of Prosecution, Trial, and Conviction, for returning from such Transportation,

or for being at large in any part of Great Britain, as other Felons transported or ordered to be transported are liable unto by virtue of the Laws now in force: s. 5.

Be it ordained, that Justices of Peace have Authority to inquire in their Sessions of all manner Escapes of every person arrested and imprisoned for felony. 1 Ric. 3. c. 8.

Justices of Peace in Sessions may inquire of escapes.

It is provided that nothing be demanded nor taken from henceforth, nor levied by the Sheriff nor by any other, for the Escape of a Thief or a Felon, until it be judged for an escape by the Justices in Eyre; and he that otherwise doth, shall restore to him or them that have payed it, as much as he or they have taken or received, and as much also unto the King. 3 Ed. 1. c. 3.

Nothing shall be levied for an escape till it be judged such.

§ 2. Prison Breach.

Concerning Prisoners which break Prison, our Lord the King willeth and commandeth, that none from henceforth that breaketh prison shall have judgment of Life or Member for breaking of Prison, only except the cause for which he was taken and imprisoned did require such judgment if he had been convicted thereupon according to the Law and Custom of this Realm, albeit in times past it hath been used otherwise. 1 Ed. 2. st. 2.

3 Inst. 69, 70.
Kel. 87.
Fitz. Cron.
134.
2 Inst. 589.

The punishment of prison breakers.

Estreats.

The Statute 22, 23 Car. 2. c. 22. s. 2. enacts and ordains, that all Fines, Post Fines, Issues, Amerciaments, forfeited Recognizances, Sum and Sums of Money paid in lieu or satisfaction of them, and all Forfeitures whatsoever, set, imposed, lost, or forfeited in the Court of King's Bench, Common Pleas, or Exchequer, shall be certified and estreated in and into the said Court of Exchequer twice in every year, yearly, that is to say, all Fines, Post Fines, Issues, Amerciaments, forfeited Recognizances, Sum and Sums of Money paid in lieu or satisfaction thereof, and all other Forfeitures whatsoever, arising in any of the said Courts, from the beginning of every Hilary Term in every year to the beginning of every Trinity Term in every year, shall be and are hereby ordained to be certified and estreated in and into the said Court of Exchequer the last day of every Trinity Term in every year; and by the third section, all such Fines, Post Fines, Issues, Amerciaments, forfeited Recognizances, Sum and Sums of Money paid and to be paid in lieu or satisfaction of them or

All Fines, &c. Amerciaments, Recognizances, and other Forfeitures, arising in the Courts at Westminster, shall be certified into the Exchequer twice in every year;

on penalty of
£50.

any of them, and all other Forfeitures whatsoever, arising in any of the said Courts from the beginning of every Trinity Term to the beginning of every Hilary Term in every year, shall in like manner be certified and estreated in and into the said Court of Exchequer the said last day of Hilary Term in every year; on pain that every Officer and Minister of or belonging to the said Courts, or any of them, to whom it doth, ought, or shall belong or appertain to make Certificate or Estreat of any of the said Fines or Forfeitures, making default or offending therein, to forfeit and pay £50 for every such Default or Failure, to be recovered in any Court of Record by Action of Debt, &c.

Not to extend to alter or change the course used in the certifying and estreating of Issues from the said Court of Common Pleas nor of Fines *pro licencia concordandi*, commonly called Post Fines, being Termly certified and estreated into the said Court of Exchequer, nor the Termly estreating of Issues certified out of the Office of Pleas belonging to the said Court of Exchequer to the Clerk of the Estreats there. s. 4.

All like fines, &c. before Judges of Assise, Clerks of the Markets, or Commissioners of Sewers, shall also be certified at the times herein stated;

By § 5. all Fines, Issues, Amerciaments, forfeited Recognizances, Sum and Sums of Money paid or to be paid in lieu or satisfaction of them or any of them, and all other Forfeitures whatsoever, which shall be set, imposed, lost, or forfeited by or before any Judge or Judges of Assise, Clerk of the Market, or Commissioners of Sewers, throughout the Kingdom of England, shall be and are hereby ordained to be certified and estreated into the said Court of Exchequer twice in every year yearly; that is to say, all Fines, Issues, Amerciaments, forfeited Recognizances, Sum and Sums of Money paid or to be paid in lieu or satisfaction of them or any of them, arising or happening in any of the said Courts last-mentioned, or before any Judge or Judges of the same, from the Feast of Saint Michael the Archangel in every year to the end of Easter in every year, shall be certified and estreated in and into the said Court of Exchequer before the first day of Trinity Term in every year.

And by s. 6. all Fines, Issues, Amerciaments, forfeited Recognizances, Sum and Sums of Money paid or to be paid in lieu or satisfaction of them or any of them, arising or happening in any of the said Courts last-mentioned, after the Feast of Easter in every year to the said Feast of Saint Michael the Archangel in every year, shall be certified and estreated into the said Court of Exchequer before the first day of Hilary Term in every year; on pain that every such person to whom it doth,

ought, or shall belong or appertain to make Certificate or Estreats of the said Fines or Forfeitures, making default herein, to forfeit and pay £50 for every default or failure [to be recovered as aforesaid.] on penalty of £50.

By s. 7. all and every Clerk and Clerks of the Peace, and all Town Clerks, and every of them, within the Kingdom of England, do and shall make and deliver to the Sheriff or Sheriffs of the County, City, or Town Corporate, where the Sessions of the Peace is or shall be kept, within twenty-one days after the 29th September in every year, yearly, a true or perfect Estreat or Schedule of all Fines, Issues, Amerciaments, forfeited Recognizances, Sum and Sums of Money, and other forfeitures whatsoever, that are or shall happen to be imposed, set, lost, or forfeited in any of the said Sessions of the Peace respectively, which shall be held before Michaelmas, by or upon any person or persons whatsoever, due to his Majesty; and by s. 8. also do and shall every year on or before the second Monday after the Morrow of All Souls, make out and deliver into the said Court of Exchequer a true and perfect duplicate of all such Estreats and Schedules, so delivered to the respective Sheriffs as aforesaid, on like pain of £50, to be recovered in the same way as before directed. Clerks of the Peace and Town Clerks shall yearly deliver to the Sheriff a schedule of all fines, &c.; and return a duplicate thereof into the Exchequer; on penalty of £50.

By s. 9. no officer or minister of or belonging to any of his Majesty's Courts of King's Bench, Common Bench, or Exchequer, nor any Clerk of Assise, Clerk of the Peace, Town Clerk, nor any officer or minister under them, or any of them, nor other person or persons whatsoever, do or shall spare, take off, discharge, or wittingly or willingly conceal any Indictment, Fine, Post Fine, Issue, Amerciament, forfeited Recognizance, or other forfeiture whatsoever, exhibited, set, imposed or forfeited, or to be exhibited, set, imposed, lost, or forfeited in any of the said Courts before mentioned, or before any Judge or Judges of or belonging to the same, or any Sum or Sums of Money paid or to be paid to any officer or officers, in lieu or satisfaction of any fine or forfeiture, unless it be by rule or order in Court where such Indictment, Fine, Post Fine, Issue, Amerciament, forfeited Recognizance, or other forfeiture is or shall be exhibited, set, imposed, lost, or forfeited, nor shall any of the said officers or ministers aforesaid, or any of them, or any other, wittingly or willingly miscertify or estreat in or into the said Court of Exchequer any Fine, Post Fine, Issue, Amerciament, forfeited Recognizance, or other forfeiture whatsoever, whereby the process of the said Court of Exchequer for the levying of the same Officers sparing, &c. or concealing any Indictment, Fine, &c. or wittingly miscertifying or estreating the same, shall forfeit £50, and lose their office, and be incapacitated to hold certain offices.

may be made invalid and of none effect; but every such officer and officers, and all and every the person and persons offending herein, shall for every such offence forfeit and pay treble the value of such Fine, Post Fine, Issue, Amerciament, forfeited Sum and Sums of Money, and other forfeiture, so spared, taken off, discharged, concealed, not certified or estreated, or miscertified or estreated as aforesaid, one moiety thereof to the use of his Majesty, his heirs and successors, and the other to such person as will sue for the same in any Court of Record, by action of Debt, Bill, Plaint, or Information, wherein no wager of Law, essoign, or protection shall be allowed; and also shall lose his and their office and place, and be for ever incapable to be employed in any office or place where any part of his Majesty's Revenue is to be managed or paid. Not to extend to the prejudicing the rights, &c. of any Bodies Politic or Corporate, or their successors, or of any Lord or Lords of any Manor, Liberty, or Franchise whatsoever. s. 11. This Act was made perpetual by the 4, 5 W. & M. c. 24. s. 4.

The Barons of the Exchequer may, besides the penalties inflicted by former Acts, amerce Clerks of Assise, &c. refusing or neglecting to return Estreats.

For the more effectual enforcing and obliging the respective Clerks of Assises, Clerks of the Peace, Clerks of the Commissioners of Sewers, Clerks of the Market, Town Clerks, or other persons to whom it doth or may belong to make returns of Estreats into the Court of Exchequer, to make out and deliver their respective Estreats, Duplicates, Certificates, and Schedules in due time, so that the Sheriff may not be hindered or retarded in the passing his account for want of the said Estreats, according to the direction, purport, and intent of 22, 23 Car. 2. c. 22; be it enacted, that over and above the penalties mentioned in the said Acts, or either of them, it shall and may be lawful to and for the Barons of the Court of Exchequer from time to time to Amerce such Clerk of the Assise, Clerk of the Peace, Clerk of the Commissioners of Sewers, Clerk of the Market, Town Clerk, or other person to whom it doth or may belong to make returns of Estreats into the said Court of Exchequer as aforesaid, for refusing, neglecting, or omitting to perform and do his or their duty in returning the said Estreats at the times and according to the direction, purport, and intent of the said two Acts, and to cause the said amerciements to be levied and answered by such ways and means and in such manner as other amerciements set in the said Court may or have been used to be done. 3 G. 1. c. 15. s. 12.

Expences of Prosecutors.

The Statute 25 G. 2. c. 36. s. 11. reciting, that “ many persons are deterred from prosecuting Persons guilty of Felony upon account of the Expence attending such Prosecution, which is another great cause and encouragement of Thefts and Robberies; in order therefore to encourage the bringing Offenders to Justice,” it is enacted, that it shall and may be in the power of the Court before whom any person has been tried and convicted of any Grand or Petit Larceny, or other Felony, at the prayer of the Prosecutor, and on consideration of his circumstances, to order the Treasurer of the County in which the offence shall have been committed, to pay unto such Prosecutor such sum of money as to the said Court shall seem reasonable, not exceeding the Expences which it shall appear to the Court the Prosecutor was put unto in carrying on such Prosecution, making him a reasonable allowance for his time and trouble therein; which order the Clerk of Assise, or Clerk of the Peace respectively, is hereby directed and required forthwith to make out and to deliver unto such Prosecutor, upon being paid for the same the sum of one shilling and no more; and the Treasurer of the County is hereby authorized and required, upon sight of such order, forthwith to pay to such Prosecutor, or other person authorized to receive the same, such sum of money as aforesaid, and shall be allowed the same in his accounts.

In prosecutions for Felony, where the prisoner is convicted, the Court may allow and order the payment of the prosecutor's expences, and for his loss of time and trouble therein.

The Statute 27 G. 2. c. 3., intituled “ An Act for allowing the Charges of poor persons bound to give Evidence against Felons,” recites (s. 3.) that whereas the Expence, as well as Loss of Time, in attending Courts of Justice, is a discouragement to the poorer sort to appear as Witnesses against Offenders, who thereby escape the public justice, and the punishment due to their crimes; and then enacts, that from and after the 24th June 1754, when any poor person shall appear on Recognizance in any Court, to give Evidence against another accused of any Grand or Petit Larceny, or other Felony, it shall and may be in the power of the Court, at the prayer, and on the oath of such person, and on consideration of his circumstances, in open Court, to order the Treasurer of the County or Place, in which the offence shall have been committed, to pay unto such person such sum of money as to the said Court shall seem reasonable, for his Time, Trouble, and Expence; which order the proper Officer of such Court is hereby directed and required to make out, and to deliver unto such person, upon being paid for the same the

Poor persons bound by recognizance and prosecuting Felons, shall have an allowance from the County.

Sixpence to be paid for making out the order.

Expences of Prosecutors.

sum of sixpence, and no more; and such Treasurer is hereby authorized and required, upon delivery of such order, forthwith to pay such person, or other person authorized to receive the same, such sum of money as aforesaid, and shall be allowed the same in his accounts.

In Middlesex
the parish shall
pay such ex-
pences.

Provided always, that nothing in this Act contained shall extend to empower *such Court*, or any Justice or Justices of the Peace, to make warrants or orders on the Treasurer of the County of Middlesex, for the payment of the Expences of the Constable, or other Officer, in conveying any person to Gaol, or for the payment of any person for his Time, Trouble, and Expence, who shall appear on his Recognizance to give Evidence as aforesaid; but that within the said County of Middlesex the Expences of the Constable or other Officer, occasioned by his conveying of any person to Gaol, by virtue of a warrant from any Justice or Justices of the Peace, shall (after such Expences have been examined into upon oath, and allowed by such Justice or Justices, and for which no Fee or Reward shall be taken) be paid by the Overseer or Overseers of the Poor of the Parish or place where the said person was apprehended, who is and are hereby authorized and required to pay the same; and the sum or sums so paid shall be allowed in his or their accounts. s. 4.

The Statute 18 G. 3. c. 19. (s. 7.), recites the before mentioned Statutes of 25 & 27 G. 2., and that the said Acts have been a great encouragement towards bringing offenders to Justice, in all such Statutes as are within the purview of the said Statutes; but nevertheless it has been found by experience, that the Statute of the 27 G. 2. with regard to persons appearing on Recognizance in any Court to give Evidence extends only to *poor* persons, such Court also considering their circumstances, and also does not extend to persons appearing on subpoena to give Evidence; and that the said Act of the 25 G. 2. with regard to Prosecutors, directs the Court to consider the circumstances of such Prosecutor, and also gives him relief only where the offender is convicted; and that it is just and reasonable, and may tend in future to the prevention of Crimes, or to the due prosecution of all offenders against the Laws, that every Prosecutor to conviction, and every person so appearing on Recognizance or Subpoena to give Evidence, should be allowed his reasonable Expences; and also, in case he be poor, a reasonable satisfaction for his trouble and loss of time; and that such allowance should be made to Prosecutors as aforesaid, even though the person so accused be acquitted, provided it shall appear to such Court be-

fore whom the said prisoner shall have been tried, that there was a reasonable ground of prosecution, and that the Prosecutor hath *bonâ fide* prosecuted; and then enacts, that it shall and may be in the power of the Court before whom any person has been tried and convicted of any Grand or Petit Larceny, or other Felony, or before whom any person has been tried and acquitted of Grand or Petit Larceny, or other Felony, in case it shall appear to the said Court that there was a reasonable ground of prosecution, and that the said Prosecutor had *bonâ fide* prosecuted, to order, upon prayer of the said Prosecutor, the Treasurer of the County, Riding, or Division in which the offence shall have been committed, or shall have been supposed to have been committed, to pay unto such Prosecutor such sum of money as to the said Court shall seem reasonable, not exceeding the Expences which it shall appear to the Court the Prosecutor was *bonâ fide* put unto in carrying on such prosecution, making, in case the said Prosecutor shall appear to the Court to be in poor circumstances, a reasonable allowance to such Prosecutor for trouble and loss of time; which order the Clerk of Assise, or Clerk of the Peace respectively, is hereby directed and required forthwith to make out and deliver unto such Prosecutor, upon being paid for the same the sum of one shilling, and no more; and the Treasurer of the said County, Riding, or Division, is hereby authorized and required, upon sight of such order, forthwith to pay to such Prosecutor, or other person authorized to receive the same, such sum of money as aforesaid, and shall be allowed the same in his accounts.

Prosecutors of Felons may be allowed their Expences, &c. though the Prisoner be acquitted.

By s. 8. it shall and may be in the power of the Court, when any person shall appear on Recognizance or Subpoena to give Evidence as to any Grand or Petit Larceny, or other Felony, whether any Bill of Indictment be preferred or not to any Grand Jury, provided the said person shall, in the opinion of the said Court, *bonâ fide* have attended the said Court in obedience to such Recognizance or Subpoena, to order the Treasurer of the County, Riding, or Division, in which the offence shall have been committed, or shall have been supposed to have been committed, to pay unto such person such Sum of Money as to the said Court shall seem reasonable, not exceeding the Expences which it shall appear to the said Court the said person was *bonâ fide* put unto by reason of the said Recognizance and Subpoena, making, in case the said person shall appear to the Court to be in poor circumstances, a reasonable

And also to prosecutors appearing on subpoena, whether any bill preferred or not.

Expences of Prosecutors.

allowance to such person for trouble and loss of time, which order the Clerk of Assise, or Clerk of the Peace, respectively, is hereby directed and required forthwith to make out and deliver to such person, upon being paid for the same the sum of sixpence and no more; and the Treasurer of the said County, Riding, or Division is hereby authorized and required, upon sight of such Order, forthwith to pay to such person, or other person authorized to receive the same, such sum of money as aforesaid, and shall be allowed the same in his accounts.

Justices in Quarter Sessions may make regulations as to the amount of such allowances.

Provided nevertheless, that it shall and may be lawful for his Majesty's Justices of the Peace in and for any County, Riding, Division, City, Town Corporate, Franchise, or Liberty, in Quarter Sessions assembled, to lay down or alter from time to time such Rules and Regulations as to any Costs or Charges thereafter to be allowed to any person whatsoever, by virtue of any part of this Act, for the better carrying the intent of any part of this Act into execution, and for the preventing any unnecessary expence, as to them shall seem most just and reasonable; which Rules and Regulations, having received the approbation and signature of one or more of his Majesty's Judges of Oyer and Terminer, or General Gaol Delivery, at the Assises for the County wherein such Rules and Regulations shall have been made, shall be binding, and not otherwise, on all persons whatsoever; and no person whatsoever shall be allowed any greater Sum of Money by virtue of this Act than according to the said Rules and Regulations so approved of as aforesaid, any thing herein contained to the contrary thereof in anywise notwithstanding. s. 9.

Court empowered to order payment of Expences of Prosecution.

The Statute 58 G. 3. c. 70. ("for taking away certain pecuniary and other Rewards (1), and for facilitating the means of prosecuting persons accused of Felony,") reciting (s. 4.) that many persons are deterred from prosecuting persons guilty of Felony upon account of the Expence and Loss of Time attending such Prosecutions, whereby the ends of Justice are frequently defeated; be it therefore enacted, that from and after the passing of this Act it shall and may be lawful for the Court before whom any person shall be prosecuted or tried for any Grand or Petit Larceny or other Felony, and every such Court is hereby authorized and empowered, at the request of the Prosecutor, or any other person or persons who shall be-

(1) See this portion of the Act under title REWARDS.

come bound in any Recognizance to his Majesty, his Heirs and Successors, to prosecute or give Evidence, or who shall be subpoenaed to give Evidence, against any person or persons accused of any Grand or Petit Larceny or other Felony, and who shall appear to prosecute and give Evidence, or who shall appear to the said Court to have been active in the apprehension of any person or persons accused of any of the offences in the said herein-before recited Acts mentioned (1), or any of them, to order the Sheriff or Treasurer of the County in which the offence shall have been committed, to pay unto such Prosecutor and Witnesses, and person or persons concerned in such apprehension as aforesaid, respectively, as hereinafter mentioned, as well the Costs, Charges, and Expences which such Prosecutor shall be put to in preferring the Indictment or Indictments against the person or persons so accused, as also such Sum and Sums of Money as to the said Court shall seem reasonable and sufficient to reimburse such Prosecutor and Witnesses, and person or persons concerned in such Apprehension as aforesaid, for the Expences they shall have been put severally to in attending before the Grand Jury to prefer such Indictment or Indictments, and in otherwise carrying on such Prosecution, and also compensate such Prosecutor and Witnesses, and person or persons concerned in such apprehension as aforesaid, respectively, for their Loss of Time and Trouble in such apprehension and Prosecution as aforesaid.

In case the said Judge, Justices, or Court shall make any order and direction for the payment of any such Sum or Sums of Money to any person or persons concerned in the apprehension and taking of any person or persons accused of any of the offences in the said herein-before recited Acts mentioned, or any of them, the same shall be paid by the Sheriff of the County in which the offence shall have been committed; and in the like manner, upon the like Certificate, and at the same period of time, as the Rewards are directed to be paid by the said recited Acts of fourth William and Mary, sixth William the third, fifth Anne, the third, and fourteenth and fifteenth George the second; and that every such Certificate shall be made out by the Clerk of Assise, or Clerk of the Peace respectively, and be forthwith delivered to the person or persons entitled to the same, upon Payment of the Sum of Five Shillings for each such

To be paid by
the Sheriff of
the County.

(1) See these Acts under title REWARDS.

Expences of Prosecutors.

Certificate; and that the Sheriff of the County, upon payment of the Sum of Money specified in such Certificate, shall be reimbursed the said Sum of Money in like manner as is directed by the said several and respective Acts herein-before recited. s. 5.

The order for Costs to be made by the Clerk of Assise, and to be paid by the Treasurer of the County.

Every such order for the Costs and Charges assigned by this Act to Prosecutors and Witnesses shall be made out by the Clerk of Assise, or Clerk of the Peace, respectively; which order the Clerk of Assise or Clerk of the Peace is hereby directed and required forthwith to make out and deliver unto such Prosecutor, upon being paid for the same the Sum of one Shilling and no more; and the Treasurer of the said County, Riding, or Division is hereby authorized and required, upon sight of such order, forthwith to pay to such Prosecutor, or other person authorized to receive the same, such Money as aforesaid, and shall be allowed the same in his account. s. 6.

To whom Costs shall be paid.

Provided always, that no person or persons shall be entitled to any such Costs or Expences for attending the Court, unless he or they shall have been bound by Recognizance, or have previously received a Subpoena to attend the same, or a written Notice for that purpose from the Prosecutor, his Agent, or his Attorney. s. 8.

In places which do not contribute to the County Rate, and have no public Stock, a separate rate to be levied for the purposes of this Act.

And whereas there are several Cities, Towns Corporate, and places which do not contribute to the payment of any County Rate, and have no Town Rate or Public Stock; and doubts may arise whether such Cities, Towns Corporate, and places can be legally rated and assessed towards the payments by this Act directed to be made; be it therefore enacted, that in all such cases the said Costs, Charges, Expences, Sum and Sums of Money, and Compensations, shall be raised, levied, collected, and paid within such Cities, Towns Corporate, and places, by a separate Rate and Assessment to be made by the Churchwardens and Overseers of the Poor of the several parishes and precincts within such Cities, Towns Corporate, and places, and by such and the like ways, methods, and means, as the Rates for the Relief of the Poor are, can, or may be raised, levied, and collected in such Cities, Towns Corporate, and places. s. 9.

Where Sums are too small to be raised by a separate rate, such Sums shall be paid out of the poor's rate.

And whereas it may happen that the Sums of Money to be raised in the said Cities, Towns Corporate, and Places, or some or one of them, for the payments by this Act directed to be made, may be so small that it may not be convenient to

make an equal separate rate and assessment for the same upon the said parishes and precincts within such Cities, Towns Corporate and Places; be it enacted, that in such last-mentioned case, and when and so often as the same shall happen, the said Costs, Charges, Expences, Sum and Sums of Money, and Compensations, shall and may, by order of the said Court before whom any such person may be tried as aforesaid, be paid out of the monies from time to time raised for the relief of the poor in the said several Cities, Towns Corporate, and places, and the Treasurers, or persons from time to time having the management of the said monies raised for the relief of the poor in the same Cities, Towns Corporate and Places respectively, are hereby authorized and required to pay the said sums of money so ordered to be paid as aforesaid, out of the said last-mentioned monies, when and as often as the same shall be so ordered: Provided always, that should there be more parishes than one in the same District, the payments are to be made and levied in such rates and proportions as the respective parishes pay to the poor rate. s. 10.

Extortion.

And that no Sheriff nor other the King's Officer take any Reward to do his office, but shall be paid of that which they take of the King, and he that so doth shall yield twice as much, and shall be punished at the King's pleasure. 3 Ed. 1. c. 26.

King's Officers
shall not take
Rewards, &c.

And that no Clerk of any Justices, Escheator, or Enquirer, shall take any thing for delivering Chapiters, but only Clerks of Justices in their Circuits and that two shillings and no more of every Wapentake, Hundred, or Town that answereth by twelve or by six, according as it hath been used of old time; and he that doth contrary shall pay thrice so much as he hath taken, and shall lose the service of his master for one year. 3 Ed. 1. c. 27.

Clerks to Jus-
tices, &c. shall
not take undue
Fees.

And forasmuch as many complain themselves of Officers, Cryers of Fees, and the Marshals of Justices in Eyre, taking money wrongfully of such as recover seisin of land, or of them that obtain their suits, and of fines levied, and of Jurors, Towns, Prisoners, and of others, attached upon Pleas of the Crown, otherwise than they ought to do, in divers manners; and forasmuch as there is a greater number of them than there ought to be, whereby the people are sore grieved, the King commandeth

Marshalls,
Cryers, &c.
shall not take
undue Fees.

Their punishment for so acting.

The fees of porters bearing verge before Justices on the Circuit.

The penalty on them for extortion.

that such things be no more done from henceforth; and if any Officer of Fee doth it, his office shall be taken into the King's hand; and if any of the Justices' Marshals do it, they shall be grievously punished at the King's pleasure, and as well the one as the other shall pay unto the complainants the double value of that they have received in such manner. 3 Ed. 1. c. 80.

By the Statute 13 Ed. 1. c. 44. "concerning Porters bearing verge before Justices of the Bench in the Circuit," it is provided, that of every Assise and Jury that they keep, they shall take four-pence only, and for the bills nothing; of such as recover their demands by default, confession, or otherwise by judgment, without Assise and Jury, they shall take nothing; of such as go without day, by default of the demandant or plaintiff, they shall take nothing; and if any recover his damages against many by one Writ, and by Recognizance of Assise or Jury, they shall be content with four-pence. And likewise, if many named in one Writ do recover by Recognizance of Assise or Jury, they shall be content with four-pence; of such as do homage in the Bench, they shall be content with their upper garment; of Great Assises, Attaints, Juries, and Battle waged, they shall take twelve-pence only; of such as be called before Justices to sue or to defend their pleas, they shall take nothing for their coming in or forth: at the Pleas of the Crown, for every dozen, twelve-pence only shall be taken; of every prisoner delivered, four-pence shall be taken; of every one whose peace is proclaimed, twelvence only shall be taken; of the finders of men slain and others of a town attached, four-pence; of tythingmen nothing shall be taken. Of cirographers, for making a cirograph, it is ordained, that they shall be contented with four shillings (1). Of clerks writing Writs original and judicial, it is ordained, that for one Writ they shall take but one penny. And the King chargeth all his Justices, upon their Faith and Oath that they owe him, that if such manner of Officers offend in any article against this Statute, and complaint come to them thereof, they shall execute on them reasonable punishment; and if they offend the second time they shall award greater punishment, that they may be duly corrected; and if they offend the third time, and be thereupon convicted, if they be Officers of the Fee,

(1) By Statute 2 H. 4. c. 8. Chirographer taking more than this Fee shall lose his office, be forejudged his office, and pay treble damages to the party grieved.

they shall lose their Fee, and if they be other, they shall void the King's Court, and shall not be received again without the special grace and licence of the King himself. 13 Ed. 1. st. 1. c. 44.

By Statute 25 Ed. 3. st. 3. c. 9. the King's Justices shall not, from henceforth, impeach the Ordinaries nor their Ministers because of Indictments of Extortions or Oppressions, unless they say and put in certain in what thing, and of what and in what manner, the said Ordinaries or their Ministers have done Extortions or Oppressions.

Indictments for Extortion shall set forth the special matter.

Item, whereas the Ministers of Bishops, and other Ordinaries of Holy Church, take of the people grievous and outrageous Fine for the Probate of Testaments, and for the making of acquittances thereof; the King hath charged the Archbishop of Canterbury, and the other Bishops, that they cause the same to be amended; and if they do not, it is accorded, that the King shall cause to be inquired by his Justices of such Oppressions and Extortions, to hear them and determine them as well at the King's suit as at the suit of the party, as in old time hath been used. 31 Ed. 1. st. 1. c. 4.

Extortions, &c. in granting probates of Testaments, may be heard and determined by the temporal courts.

If any Sheriff from henceforth do any Extortion to the people, and be thereof attainted, he shall be duly punished for the same Extortion at the King's will. 1 H. 4. c. 11.

The punishment of Sheriffs guilty of Extortion.

Because that complaint is made how the Clerk of the Crown of the King's Bench, whereas fourscore or an hundred men be indicted of one Felony or of one Trespass, and all they plead to an Issue as not guilty, the said Clerk ought not to take for the Venire Facias, nor for entering of the plea, more than two shillings, the said Clerk doth take for every such name by Extortion two shillings, in great oppression of the people; our said Lord the King hath ordained and established, that the said Clerk of the Crown shall take no more than hath been duly used of old time; and moreover hath charged the Justices of the King's Bench that no Extortion be done in this behalf in the Bench aforesaid. 2 H. 4. c. 10.

4 Inst. 74. The fees of the Clerk of the Crown of K. B. for Venires, &c.

The Fees of the Marshal of the Marshalsea of the King's house. 2 H. 4. c. 23.

False Pretences.

- I. *Unlawfully obtaining Money, Goods, Chattels, Jewels, or other Things, by Means of any false privy Token or counterfeit Letter.*
- II. § 1. *Unlawfully, knowingly, and designedly, by false Tokens, obtaining Money, Goods, Wares, or Merchandizes, with intent to cheat and defraud any Person thereof.*
- § 2. *Obtaining by the same Means from any Person, or any Body Politic or Corporate, any Chose in Action, or other Security or Warrant or Order for Payment of Money.*

I. *Unlawfully obtaining Money, Goods, Chattels, Jewels, &c. by means of false privy Tokens or counterfeit Letters.*

Recital of frauds by persons obtaining money, &c. from others by false privy tokens and counterfeit letters in other men's names.

1 Bulstr. 149.
Cro. Car. 564.

Forasmuch as many light and evil disposed persons, not minding to get their livings by truth, according to the Laws of this Realm, but compassing and devising daily how they may unlawfully obtain and get into their hands and possession Goods, Cattels, and Jewels of other persons, for the maintenance of their unthrifty living, and also knowing that if they come to any of the same Goods, Cattels, and Jewels by stealth, that then they, being thereof lawfully convicted according to the Laws of this Realm, shall die, therefore have now of late falsely and deceitfully contrived, devised, and imagined privy Tokens and counterfeit Letters in other men's names, unto divers persons, their special friends and acquaintances, by colour whereof the said light and evil disposed persons have deceitfully and unlawfully obtained and gotten great substance of money, Goods, Cattels, and Jewels, unto their hands and possession, contrary to right and conscience.

The punishment of such offenders.

For reformation whereof, be it enacted, that if any person or persons, of what estate or degree soever he or they be, falsely and deceitfully obtain or get into his or their hands or possession any Money, Goods, Cattels, Jewels, or other things of any other person or persons, by colour and means of any such false Token or counterfeit Letter made in any other man's name as is aforesaid, that then every person so offending, and being thereof lawfully convict, by witnesses taken before the Lord Chancellor, or by examination of witnesses or confession taken in the Star Chamber before the Council, or before the Justices

of Assise in their Circuits for the time being, or before the Justices of Peace in their General Sessions, or by Action in any Court of Record, shall have and suffer such Conviction and Punishment, by Imprisonment of his body, setting upon the Pillory, or otherwise by any corporal pain, except pains of death, as shall be unto him limited, adjudged, or appointed by the person before whom he shall be so convict of the said offences or of any of them. 33 H. 8. c. 1.

As well the Justices of Assise for the time being, as also two Justices of Peace in every County, whereof one to be of the Quorum, shall have full power to call and convent by Process or otherwise, to the said Assises or General Sessions, any person being suspected of any of the offences aforesaid, and to commit him to ward, or to let him to bail, till the next Assises or General Sessions there to be examined, and further to be ordered by their discretions as is aforesaid. s. 3.

Justices of the Peace within every City, Borough, Town and Franchise within this Realm, or other the King's Dominions, shall have like Jurisdiction and Authority at their General Sessions, and otherwise, to do and execute all things in all points as other Justices of the Assise, in their Circuits, or Justices of the Peace in the Counties, by virtue of this Act be limited and appointed to do and execute, for the punishment and correction of like offenders as by this foresaid Act is specified and declared; saving to the party grieved by such deceit such remedy, by way of action or otherwise, of and for the same Money, Goods, Cattels, Jewels, or other things so obtained as he might have had if this Act had never been had or made. s. 4.

Trial of such persons.

II. Unlawfully, knowingly, and designedly by False Pretences obtaining Money, Goods, Wares, or Merchandizes, with Intent to cheat and defraud any Person thereof.

The statute 30 Geo. 2. c. 24. intituled An Act for the more effectual punishment of persons who shall attain or attempt to obtain possession of Goods or Money by False or untrue Pretences, recites, that "divers evil-disposed persons, to support their profligate way of life, have by various False Stratagems, Threats, and Devices, fraudulently obtained divers Sums of Money, Goods, Wares, and Merchandizes, to the great injury of industrious families, and to the manifest prejudice of trade and credit;" and "for the punishing of all such offences" enacts, that from and after the 29th Sept. 1757, all persons who know-

§ 1.
See Cowp. 24.

Persons convicted of obtaining Money, Goods, &c. by false pretences, shall be punished by fine, imprisonment, or transportation.

ingly and designedly by False Pretence or Pretences shall obtain from any person or persons Money, Goods, Wares, or Merchandizes, with intent to cheat or defraud any person or persons of the same, shall be deemed offenders against law and the public peace, and the Court before whom such offender or offenders shall be tried shall, in case he, she, or they shall be convicted of any of the said offences, order such offender or offenders to be fined or imprisoned, [or to be put in the Pillory (1)], or publicly whipped, or to be transported as soon as conveniently may be (according to the Laws made for transportation of Felons) to some of his Majesty's Colonies or Plantations in America, for the term of seven years, as the Court in which any such offender or offenders shall be convicted shall think fit and order. s. 1.

Justices of Peace shall examine offenders,

Any Justice or Justices of the Peace of the County, Riding, Division, City, Liberty, or Place before whom any person or persons charged on oath by any credible person or persons with having committed any of the offences intended by this Act to be punished, shall be brought, shall examine by oath (which oath any such Justice or Justices is and are hereby empowered and required to administer), and such other lawful means as to any such Justice or Justices shall seem meet, touching the matters complained of, and deal with the offender or offenders according to law; and if the party or parties charged with being the offender or offenders shall be committed to prison, or be admitted to bail to answer the matters complained of at the next General or Quarter Sessions of the Peace, or next Sessions of Oyer and Terminer which shall be held for the County, Riding, Division, City, Liberty, or Place wherein the offence shall be charged, on oath, to have been committed, then such Justice or Justices shall bind over the prosecutor and prosecutors of every such offender and offenders, to appear at the next General or Quarter Sessions of the Peace, or next Session of Oyer and Terminer, which shall be held for the County, Riding, Division, City, Liberty, or place wherein the offence shall be charged to have been committed, by Recognizance, in such reasonable sum of money as to such Justice or Justices shall seem requisite, to prosecute such offender and offenders with effect; and if any Money, Goods, Wares, or Merchandizes fraudulently obtained shall appear to

and commit or bail them;

and bind parties by Recognizance to prosecute.

(1) This part of the punishment is repealed by the general words of the Statute 56 G. 3. c. 138. which see under title PILLORY.

such Justice or Justices to exceed the amount or value of twenty pounds, then the Recognizance to be taken in that behalf from the prosecutor or prosecutors shall be in not less than double the amount or value the same shall appear before any such Justice or Justices to be worth. s. 2.

The Statute 52 G. 3. c. 64., which is intituled "An Act for extending the provisions of an Act of the thirtieth year of King George the Second, against persons obtaining Money by False Pretences, to persons so obtaining Bonds and other Securities," recites the Statute 30 G. 2. c. 24.; and that "it is expedient that the provisions of the said Act should be further extended in the manner herein-after mentioned;" and then enacts, that from and after the passing of this Act, all persons who knowingly and designedly, by False Pretence or Pretences, shall obtain from any person or persons, or from any Body Politic or Corporate, any Money, Goods, Wares or Merchandizes, or any Bond, Bill of Exchange, Bank Note, Promissory Note, or other Security for the payment of Money, or any Warrant or Order for the payment of Money, or delivery or transfer of Goods or other valuable thing, with intent to cheat or defraud any person or persons, or any Body Politic or Corporate, of the same; or shall knowingly send or deliver any Letter or Writing with or without a name or names subscribed thereto, or signed with a fictitious name or names, Letter or Letters threatening to accuse any person of any Crime, punishable by Law with Death, Transportation, Pillory, or any other infamous Punishment, with a view or intent to extort or gain any Bond, Bill of Exchange, Bank Note, Promissory Note, or other Security for the payment of Money, or any Warrant or Order for the payment of Money, or delivery or transfer of Goods or other valuable thing, shall be deemed offenders against Law and the public Peace, and shall be liable to be prosecuted and punished in like manner as if they had knowingly and designedly, by False Pretence or Pretences, obtained Money, Goods, Wares, or Merchandizes from any person or persons, with intent to cheat or defraud any person or persons of the same, or had sent or delivered such Letter or Writing with a view or intent to extort Money, Goods, Wares or Merchandizes, from the person or persons so threatened.

§ 2.

Persons obtaining by False Pretences Money, &c. or any bill of exchange, bank note, &c. or other security for money, or any warrant, &c. for money or goods, &c. liable to the same punishment as under recited Act.

Fees.

No greater Fee shall be taken by Officers of Assises and Nisi Prius upon an Exchequer Record than upon others of a like nature in K. B. and C. P.

Where the taking of larger Fees by the Officers of Assize and Nisi Prius in the respective Circuits of this Kingdom, upon Records issuing out of the Office of Pleas of his Majesty's Court of Exchequer at Westminster, between party and parties, than are taken on such Records issuing out of any other Court, is a grievance to the subject; be it enacted, that from and after 24th June 1750, no Officer or other person whatsoever shall demand, take, or receive any greater or other Fees upon such Records issuing out of the said Office, than are taken upon Records in causes of the like nature issuing out of the Courts of King's Bench and Common Pleas at Westminster. 23 G. 2. c. 26. s. 10.

It seems worthy of remark, that the above enactment is to be found in an Act for better regulating *Pilots*; for permitting certain *Spirits* to be landed before payment of the Duties; to amend an Act regulating the *Admeasurement of Coals*; for preventing Exactions by Occupiers of certain *Locks and Wears*; for regulating *Seamen in the Merchant Service*; for amending an Act for the better preservation of *Salmon*; to regulate Fees on Trials at Assizes and Nisi Prius upon Exchequer Records; for *apprehending persons* in certain places under the Warrants of Magistrates; to repeal part of an Act relating to the time during which the *Excise Office* is to be kept open; to prevent the *stealing or destroying of Turnips*; and to amend an Act for better regulating *Attornies*, &c.

The Statute 14 G. 3. c. 20., intituled "An Act for the Relief of Prisoners charged with Felony or other Crimes, who shall be acquitted or discharged by Proclamation, respecting the payment of Fees to Gaolers, and giving a recompence for such Fees out of the County Rates;" recites, that persons in custody for Felonies or other Crimes, or on suspicion thereof, or as accessaries thereto, though no Bills of Indictment are afterwards preferred or found against them, or they are acquitted upon their trials, are nevertheless frequently detained for certain Fees to the Sheriffs, Gaolers, or Keepers of Prisons in whose custody they happen to be, which is both oppressive and unjust; and then, "for remedy thereof," enacts, that every prisoner who now is or hereafter shall be charged with any Felony or other Crime, or as an accessary thereto, before any Court holding Criminal Jurisdiction within that part of Great Britain called England and Wales, against whom no Bill of Indictment shall be found by the Grand Jury, or who on his or her trial, shall be acquitted,

Prisoners shall be discharged without paying any Fee.

or who shall be discharged by Proclamation for want of Prosecution, shall be immediately set at large in open Court, without the payment of any Fee or sum of Money to the Sheriff, Gaoler, or Keeper of the Gaol or Prison from whence he or she shall be so discharged and set at liberty, for or in respect of such discharge.

All such Fees as have been usually paid or payable to the several Sheriffs, Gaolers, and Keepers of Prisons in England and Wales, in any of the cases aforesaid, shall absolutely cease, and the same are hereby abolished and determined; and from and after the passing of this Act no Gaoler, or Keeper of any Gaol or Prison, shall ask, demand, take, or receive any sum or sums of Money from any of the said Prisoners as Fees, for, upon, or in respect of his or her discharge. s. 2.

In lieu of such Fees so abolished, the Treasurers or other proper Officers of the several Counties, or of such Districts, Hundreds, Ridings, or Divisions of a County as are not usually assessed to the County at large, and of such Cities, Towns Corporate, Cinque Ports, Liberties, Franchises, and Places as do not pay to the Rates of the several Counties in which they are respectively situated, shall, on receiving a Certificate signed by one or more Judge or Justice before whom such prisoner shall have been discharged as aforesaid (which Certificate the Judge or Justice is hereby required to give), pay out of the Rates of such County, City, Town Corporate, Cinque Port, Liberty, Franchise, or Place, such sum as has been usually paid upon that occasion, not exceeding 13s. 4d. for every prisoner so discharged as aforesaid, to the Sheriff, Gaoler, or Keeper of the Prison whence the said prisoner shall have been as aforesaid; which several sums so paid in pursuance of this Act shall be respectively allowed to the said Treasurers and Officers by the Justices before whom their accounts shall be passed. s. 3.

In lieu of such Fees, Treasurers of Counties shall, upon the Judge's certificate, pay a certain sum for every prisoner discharged.

The provisions of the above Act appear to be virtually repealed by the subsequent Act 55 G. 3. c. 50., which is so much more largely worded, though no notice whatever is taken in the latter of the existence of the former Act. The Statute 55 G. 3. c. 50. is intitled "An Act for the Abolition of Gaol and other Fees connected with the Gaols in England;" and recites, that "whereas it is expedient, for the better government of Gaols and *Bridewells* in England, that all Fees and Gratuities payable at the same, for the Entrance, Commitment, or Discharge of any Prisoner, should be abolished;" and then enacts, that from and after 1st October 1815, all Fees and Gratuities paid or payable

All Fees or Gratuities payable at Gaols and *Bridewells* shall be abolished.

by any prisoner on the Entrance, Commitment, or Discharge to or from Prison, shall absolutely cease, and the same are hereby abolished and determined.

Quarter Sessions may grant salaries, &c. to gaolers, &c. in lieu of such Fees.

The second section recites that "in some places such Fees and Gratuities as aforesaid are payable to the Gaoler or his servants, and are to him or them as a salary;" and then enacts, that it may be lawful for the Justices of the Peace for any County, City, or Town, assembled in General or Quarter Sessions, to make such allowances to the aforesaid Gaoler or Servants, as may to them seem fit, in the way of Salary or Compensation, for the Fees or Gratuities, payable by prisoners, now abolished by this Act.

Allowances to be paid out of the county rates.

The said Justices of the Peace for any County, City, or Town, may direct the said Allowances to be paid out of any County Rate, City Rate, or Town Rate, now by Law authorized to be made and levied. s. 3.

Every prisoner charged with Felony, or accessory thereto, or misdemeanor, and acquitted, to be discharged without payment of any Fee, &c.

The fourth section recites "that it is customary for Clerks of the Assise, Clerks of the Peace, Clerks of the Court or their Deputies, or other Officers in the Courts of Assise or Session, to demand and take from persons indicted, divers Sums in the way of Fees;" and then enacts, that every prisoner who now is or hereafter shall be charged with or indicted for any Felony, or as an Accessary thereto, or with or for any Misdemeanor, before any Court holding Criminal Jurisdiction within that part of the United Kingdom of Great Britain and Ireland called England, against whom no Bill of Indictment shall be found by the Grand Jury, or who, on his, her, or their Trial, shall be acquitted, or who shall be discharged by proclamation for want of Prosecution, shall be immediately set at large, without payment of any Fee or Sum of Money, for or in respect of his, her, or their Discharge, to any person or persons whomsoever; except only in such cases wherein the prisoner shall have been charged, and shall then stand charged with any process authorizing the detention of such Prisoner: provided always, that if it shall happen that any prisoner who shall so stand charged with any process authorizing his detention as aforesaid, shall have been discharged in supposed obedience to this Act, by reason that the Sheriff or other Officer entitled to have detained him was at the time of such his discharge ignorant that there was any such Charge against him, it shall in such case be lawful for such Sheriff or other Officer, on receiving Information of such Charge, presently to retake the Prisoner so discharged as aforesaid, and thereupon forthwith to detain him in Custody upon

such Charge, in such manner as the said Sheriff or other Officer might have done if such prisoner had not been set at large; and that upon his being so retaken, the said prisoner shall be deemed for the purpose of that Suit to have been in Custody continually from the time when he so first stood charged as aforesaid.

All such Fees as have been usually paid or payable to the several Clerks of Assise and Clerks of the Peace, Clerks of the Court, or their Deputies, in that part of the United Kingdom of Great Britain and Ireland called England, in any of the cases aforesaid, shall absolutely cease, and the same are hereby abolished and determined; and from and after the passing of this Act, no Clerk of Assise, Clerk of the Peace, Clerk of the Court, or their Deputies, shall ask, demand, take, or receive any Sum or Sums of Money from any of the said prisoners as Fees, for or in respect of his, her, or their discharge. s. 5.

All Fees usually paid to Clerks of the Court, Assise, &c. abolished.

In lieu and satisfaction of such lawful Fees so abolished as aforesaid, the Treasurers, or other proper Officers of the several Counties in England, or of such Districts, Hundreds, Ridings, or Divisions of a County as are not usually assessed to the County at large, and of such Cities, Towns Corporate, Cinque Ports, Liberties, Franchises, and Places as do not pay to the Rates of the several Counties in which they are respectively situated, shall, on receiving a Certificate signed by one or more Judge or Justice of the Peace, before whom such Prisoner shall have been discharged as aforesaid, (which Certificate the Judge or Justice is hereby required to give), pay out of the Rates of such County, or of such District, Hundred, Riding, or Division, or out of the public stock of such City, Town Corporate, Cinque Port, Liberty, Franchise, or Place, such lawful Sum as has been usually paid upon that occasion, for every Prisoner discharged as aforesaid, to such Clerk of Assise, Clerk of the Peace, or Clerk of the Court, or their respective Deputies; which several Sums so paid in pursuance of this Act, shall be respectively allowed to the said Treasurer and Officers by the Justices before whom their accounts shall be passed. s. 6.

In lieu of such Fees, the Treasurers of Counties, &c. shall pay the sum usually paid.

Each and every Clerk of the Peace, or his or their Deputy or Deputies, and all and every officer who shall claim any Fees or Indemnification for the same, by virtue of any of the provisions herein-before contained, for and in respect of any such prisoners, shall deliver at each and every Session of the Peace, or at some Adjournment thereof, an account of all Fees so due to him, or for which he shall claim any Indemnification;

Clerks of the Peace to deliver in accounts of such Fees;

which account shall be verified upon oath in Court, before the Chairman of such Sessions. s. 7.

and also the
Clerks of Assise.

The Clerks of Assise shall, at each and every Assise to be holden, deliver in to the Judge of the Assise who shall sit for the Trial of such Prisoners, an account of such Fees as shall be due to him for and in respect of such prisoners; which account shall be verified upon oath before such Judge to whom such account shall be delivered.

Officers exacting
Fees disqualified,
&c.

From and after the passing of this Act, any Clerk of Assise, Clerk of the Peace, Clerk of the Court, or their deputies or other officers, exacting such Fees, shall be rendered incapable of holding his or their offices, and be guilty of a Misdemeanor. s. 9.

Liberates to
debtors to be
granted free of
expence, and
compensation
made to sheriffs
for the same.

Section 10 recites that "it has been customary in some places for the Sheriff or Under Sheriff to demand, for the Liberate granted to any debtor on his discharge, a Fee or Gratuity;" and enacts, that such Liberate shall be granted to such debtor free of all expences; and that it shall be in the power of the Justices of the Peace for each County, City, or Town, assembled in Quarter Session, subject however to the approbation of the Judges of Assise, to make such compensation to the Sheriff or Under Sheriff, out of the County, City, or Town Rate, as shall to them seem fit.

How allowances
shall be raised
for places which
do not contribute
to County Rates.

Section 11 recites that "there are several Cities, Towns Corporate, and Places within this Kingdom, which do not contribute to the payment of any County Rate, and have no Town Rate or Public Stock; and doubts may arise whether such Cities, Towns Corporate, and Places can be legally rated and assessed towards the payment of the Salaries, Allowances, and Compensations in lieu of such Fees and Gratuities;" and then enacts, that in all such cases the Salaries, Allowances, and Compensations in lieu of Fees and Gratuities herein-before directed to be made, shall be raised, levied, collected, and paid, within such Cities, Towns Corporate and Places, by a separate Rate and Assessment to be made by the Churchwardens and Overseers of the Poor of the several Parishes and Precincts within such Cities, Towns Corporate, and Places, and by such and the like ways, methods, and means, as the Rates for the Relief of the Poor are, can, or may be raised, levied, and collected, in such Cities, Towns Corporate and Places.

Allowances in
certain places to
be paid out of
the poors rates.

And whereas it may happen that the sums of Money to be raised in the said Cities, Towns Corporate and Places, or some

or one of them, to answer and pay such Salaries, Allowances, and Compensations herein-before directed to be made, in lieu of Fees and Gratuities by this Act abolished, may be so small, that it may not be convenient to make an equal separate Rate and Assessment for the same, upon the said Parishes and Precincts within such Cities, Towns Corporate and Places; be it enacted, that in such last-mentioned case, and when and as often as the same shall happen, the Salaries, Allowances and Compensations shall and may, by order of the said Judge or Judges, or Justices in Sessions assembled as aforesaid, be paid out of the monies from time to time raised for the relief of the poor in the said several Cities, Towns Corporate, and Places; and the treasurers or persons from time to time having the management of the said monies raised for the relief of the poor in the same Cities, Towns Corporate, and Places respectively, are hereby authorized and required to pay the said sums of money so ordered to be paid by the said Judge or Judges, or Justices, of the said last-mentioned monies, when and as often as the same shall be so ordered: provided always, that the order for such allowances as may be made by the Justices of the Peace assembled in General or Quarter Sessions, be approved by the Judge or Judges of Assise on the first Circuit ensuing after such warrant shall have been made out by the Justices of Peace assembled in General or Quarter Session for any County, City, or Town, and that such order shall not be deemed or taken as a legal order without such warrant from the Judge or Judges of Assise: provided always, that should there be more Parishes than one in the same District, the payments are to be made and levied in such rates and proportions as the respective Parishes pay to the Poor Rate. s. 12.

Any Gaoler who shall, from and after 1st October 1815, exact from any Prisoner any Fee or Gratuity for or on account of the Entrance, Commitment, or Discharge of such Prisoner, or who shall detain any Prisoner in Custody for Non-payment of any Fee or Gratuity, shall be rendered incapable of holding his Office, be guilty of a Misdemeanor, and be punished by Fine and Imprisonment. s. 13.

Gaolers exacting any Fees from prisoners, disqualified, &c.

Provided always, that nothing in this Act contained shall be construed to extend to the King's Bench Prison, his Majesty's Prison of the Fleet, the Marshalsea and Palace Courts. s. 14.

Not to extend to certain Gaols.

The Statute 55 G. 3. c. 116., which is entitled "an Act to explain and amend" the foregoing cap. 50., recites, that upon

Judges of Assise may grant certificates to certain officers to receive compensation for abolished Fees;

that Act “doubts have arisen whether the Judges of Assise have Power under and by virtue of the said Act, to grant to certain Officers who before the passing of the same were entitled to certain Fees abolished by the said Act, a Certificate for the purpose of enabling the said Officers to receive Compensation for such Fees so abolished as aforesaid; and that it is expedient that such doubts should be removed;” and then *declares* and enacts, that from and after the passing of this Act it shall and may be lawful for the Judges of Assise, who have gone the several Circuits since the passing of the said Act, as well as future Judges of Assise, respectively, to grant such Certificate as is required by the said Act; and the said Judges of Assise are hereby authorized and required to receive from every such Officer as, previous to the passing of the said Act, was lawfully entitled to any Fees abolished by the said Act, an Account in Writing of what they severally claim to be due to them for such abolished Fees, which Account shall be verified upon the Oath of the party claiming the same, in like manner as is provided by the said Act in respect to the Clerks of Assise and Clerks of the Peace. s. 1.

to be paid in same manner as is provided by recited Act.

The amount of every such Account, after being verified as aforesaid, shall be paid in the same manner as is provided in and by the said Act, in respect to the Clerks of Assise and Clerks of the Peace. s. 2.

Recited Act to extend to, prisoners for debt, and to gaols within franchises, &c.

The third section recites that “doubts have arisen whether the said Act extends to Prisoners confined in Gaols and Prisons under Civil Process for Debt only, and whether Prisoners confined in the Gaols and Prisons of Liberties and Franchises under Civil Process for Debt; and the Gaolers and Keepers of such Gaols and Prisons, are within the meaning and purview of the said recited Act; and that it is expedient that such doubts should be removed;” and then *declares* and enacts, that the said recited Act, and the provisions therein contained, shall be deemed and construed to extend and shall extend to all Prisoners, as well Civil as Criminal, whether confined for Debt or Crime in any of the Prisons in England, except as to the said Prisons in the said Act excepted; and that the Gaolers and Keepers of all such Gaols and Prisons, except as aforesaid, and their Servants, as well within Liberties as without, shall have Compensation for their Fees or Gratuities abolished by the said recited Act or this Act, as in the said recited Act is mentioned.

The Allowances made to the Bodar or Keeper of the Prison of Dovor Castle, in lieu of Fees and Gratuities paid or payable by any Prisoner on his or her Entrance, Commitment, or Discharge to or from such Prison, and also the Compensation to the Registrar of the Cinque Ports and Clerk of Dovor Castle, for the *Liberati* granted to any Debtor or his or her Discharge, shall be paid out of the Funds raised by virtue of an Act of Parliament [54 G. 3. c. xcvi. local and personal]: Provided always, that such Allowance and Compensation shall be verified, allowed, and paid in the same manner as the Relief to such poor Debtors, and Payment for the same, is directed to be allowed, verified, and paid by the said recited Act. s. 4.

Allowances to the Bodar or Keeper of Dovor Castle Prison, and Compensation to the Registrar, &c. to be paid under 54 G. 3. c. xcvi. (Loc. & Pers.)

Felon (GOODS OF).

No Sheriff, Under Sheriff, nor Escheator, Bailiff or Franchise, nor any other person, shall take or seise the Goods of any person arrested or imprisoned for suspicion of Felony, before that the same person so arrested and imprisoned be convicted or attainted of such Felony according to the Law, or else the same Goods otherwise lawfully forfeited; upon pain to forfeit the Double Value of the Goods so taken to him that is so hurt in that behalf, by Action of Debt to be pursued by like Process, Judgment, and Execution as is commonly used in other Actions of Debt sued at the Common Law; and that no Essoign or Protection be allowed in any such Action, nor that the Defendant in any such Action be admitted to wage or do his Law. 1 Ric. 3. c. 3.

Goods of Felons shall not be seised before conviction.

Felon (LANDS OF).

We will not hold any Lands of them that be convict of Felony but One Year and One Day, and then those Lands shall be delivered to the Lords of the Fee. 9 H. 3. c. 22.

The Crown shall only hold Felons' Lands for a year and day.

Fish and Fisheries.

§ 1. *Regulations in respect of the Pilchard Fishery.*

§ 2. *Regulations for protecting the Oyster Fisheries of the Kingdom.* (And see title LARCENY. XVII.)

§ 1. *Regulations in respect of the Pilchard Fisheries.*

During certain times persons shall not fish with nets herein described within one league and half of the coast.

The Statute 13, 14 Car. 2. c. 28., made for Regulation of the Pilchard Fishing in Devon and Cornwall, “enacts, that from the 1st June till the last of November, no person shall presume to take in the High Seas, or in any Bay, Port, Creek, or Coast of or belonging to Cornwall or Devon, with any Drift Net, Trammel or Stream Net or Nets, or any other Nets of that sort or kind, unless it be at the distance of One League and an Half at least from the respective shores, upon penalty of forfeiture of the Nets so employed, or the full Value thereof, and One Month’s imprisonment without Bail or Mainprize.

Pilchards and Fumathoes shall only be bought of owners.

If any person, being neither Owners, Partners, or Adventurers in the Craft of Fishery, and in the Boats and Saynes thereunto belonging, shall presume to make or cause to be made any Pilchards or Fumathoes in Cask to be sold or transported, except he shall openly buy the aforesaid Fish of the Owners, Partners, and Adventurers in the said Pilchard Craft, or with their express allowance, leave, and consent, that they shall in such case, forfeit all the Pilchards and Fumathoes so made, and every Cask thereof, or their full value, One Half to the King, and the other Half to the party that shall sue for the same by Bill, Complaint, or Information, and upon legal proof recover the same. s. 3.

The punishment of purloining Pilchards.

If any Owner, Partner, or Company, or any other person whatever, shall fraudulently purloin, imbezil, hide, convey, carry away, or dispose by sale or otherwise, or cause to be purloined, imbezilled, hidden, conveyed, carried away, or disposed out of the Nets, Boats or Cellars, any Pilchard Fish without the express leave, consent, and allowance of the proper Owners and major part of the Company, every person that shall so offend, upon legal proof, shall pay treble the value in satisfaction to the parties so wronged, and be sent to the House of Correction for three months. s. 4.

If any idle or suspicious person or persons shall in the night assemble and flock together about the Boats, Nets, or Cellars belonging to any Pilchard Craft, upon any of the Coasts of Cornwall or Devon, having no business there to do, and being warned by the Company or Owner of such Boats or Cellars to be gone; that then, upon complaint made unto any one Justice of the Peace, every person refusing so to do shall pay Five Shillings to the poor of the parish where the offence was committed, and shall be set in the stocks for the space of five hours. s. 5. (1)

Penalty on idle and suspicious persons flocking about the boats in the night, and not departing on warning.

§ 2. Regulations for protecting the Oyster Fisheries of the Kingdom.

(And see Title LARCENY, XVII.)

The Statute 31 G. 3. c. 51. recites that “the maintaining and preserving the several Oyster Fisheries of this Kingdom is a great National object; and that the Laws now in being are not sufficient effectually to maintain and preserve the said Fisheries, and to prevent the destroying of the Oyster Brood therein;” and then, in order therefore the better to protect the said Fisheries, and to prevent the destroying of the Oyster Brood within the same, it is enacted, that if any person or persons shall, at any time from and after 1st August 1791, with or by means of any Net, Traul, Dredge, or other Instrument or Engine whatsoever, take or catch any Oysters or Oyster Brood, within the limits of any Oyster Fishery of this Kingdom, or shall dredge for Oysters or Oyster Brood, or use any Oyster Dredge, or any Net, Instrument, or Engine whatsoever within the limits of any such Fishery, for the purpose of taking or catching Oysters or Oyster Brood, although no Oysters or Oyster Brood shall be actually taken, or shall with any Net, Instrument, or Engine, drag upon the ground or soil of any such Fishery, all and every such person and persons (other than and except such persons as shall be the Owners, Lessees, or Occupiers of such Fishery, or shall be otherwise lawfully entitled to take or catch Oysters therein), shall be deemed and taken to be guilty of an Offence and Misdemeanor, and shall and may be prosecuted for the same by Indictment at the Assizes, or General Quarter Sessions of the Peace, to be holden in and for the County, Riding, or Division in which such Fishery shall lie; and the Justices in Sessions are hereby authorized and required to hear

Persons taking or catching Oysters or Brood within the limits of any Oyster Fishery, or using any instrument, &c. for that purpose, although none be taken;

declared guilty of a misdemeanor;

(1) No mode of proceeding against offenders is pointed out by the first four sections of the act.

punishable by
fine and impri-
sonment.

and determine all and every such offence and offences; and such person or persons being lawfully convicted by Verdict, or by his or their own confession, shall and may be punished for any of the said offences by Fine and Imprisonment, or either of them, as the Court before whom such person or persons shall be so convicted shall think proper, such fine not to exceed twenty pounds, or be less than forty shillings, and such imprisonment not to be for more than three months, or less than one month. s. 1.

Act not to ex-
tend to the
taking floating
Fish.

Provided always, that nothing in this Act shall extend, or be construed to extend, to prevent or hinder any person or persons whomsoever from taking, catching, or fishing for any Floating Fish in the waters or creeks within the limits of any Oyster Fishery, with any Net, Instrument, or Engine, which shall be made or fitted for the purpose of taking or catching Floating Fish only. s. 2.

One Justice may
issue warrants
for apprehending
offenders, and
for want of
sureties may
commit them till
the Assises or
Quarter Ses-
sions.

It shall be lawful for any Justice of the Peace acting for any County, Riding, or Division wherein any offence shall be committed contrary to this Act, upon complaint and oath made before him (which oath he is hereby empowered to administer), that any person or persons, except as aforesaid, hath or have, within thirty days next preceding such complaint, taken or caught any Oysters or Oyster Brood, within the limits of any Oyster Fishery, or dredged for Oysters or Oyster Brood, or used any Oyster Dredge, or any Net, Instrument, or Engine, within the limits of any such Fishery, for the purpose of taking or catching Oysters or Oyster Brood, although no Oysters or Oyster Brood shall be actually taken; or with any Net, Instrument, or Engine, dragged upon the ground or soil of any Oyster Fishery, to issue out a warrant or warrants under his hand and seal for the apprehending of the person or persons so offending, and for bringing him or them before himself or any other Justice of the Peace acting for such County, Riding, or Division; and the Justice before whom such person or persons shall be brought, shall and is hereby authorized and required, if he see cause, to commit him or them to the Common Gaol, or other usual place of confinement for prisoners in and for such County, Riding, or Division, there to remain until the then next Assises or then next General Quarter Sessions of the Peace to be holden in and for such County, Riding, or Division, whichever shall first happen next after such person or persons shall be so apprehended and brought before such Justice, unless such person or persons shall enter into Recognizance before such Justice, with two good

and sufficient sureties (each and every of them in the penalty of twenty pounds), to appear either at the said next Assizes or General Quarter Sessions of the Peace, which shall first happen as aforesaid, then and there to answer to any Indictment or Indictments that shall or may be preferred against him or them, under or by virtue of this Act. s. 3.

If any person or persons, except as aforesaid, shall be found actually taking or catching any Oysters or Oyster Brood within the limits of any Oyster Fishery, or dredging for Oysters or Oyster Brood, or using any Oyster Dredge, or any Net, Instrument, or Engine whatsoever within the limits of any Oyster Fishery, for the purpose of taking or catching Oysters or Oyster Brood, although no Oysters or Oyster Brood shall be actually taken, or with any Net, Instrument, or Engine dragging upon the ground or soil of any such Oyster Fishery, it shall be lawful for any person, being an Owner, Lessee, or Occupier of such Fishery, or otherwise lawfully entitled to take or catch Oysters therein, and for his apprentice or servant (in case the person or persons offending against this Act shall, on being required so to do, refuse to discover his or their real name or names, and the true place or places of his or their abode or residence respectively), to seize, secure, and detain every such person so being found actually taking or catching any Oysters or Oyster Brood, or dredging for Oysters, or using any Oyster Dredge, or any Net, Instrument, or Engine for the purpose aforesaid, although no Oysters or Oyster Brood shall have been actually taken, or with any Net, Instrument, or Engine dragging upon the ground or soil of such Oyster Fishery, and refusing to discover his real name and true place of abode, and forthwith to carry him and them before any Justice of the Peace acting for such County, Riding, or Division; and the said Justice, on oath being made before him (which oath he is hereby empowered to administer,) of the offence against this Act, for which such person or persons was or were seized or secured and detained, shall and is hereby authorized and required to proceed against him and them, in such and the same manner as if he or they had been apprehended and brought before such Justice by virtue of a warrant or warrants issued for that purpose under the authority of this Act. s. 4.

Persons found taking or using engines for taking Oysters or Brood, refusing to discover themselves, may be seized, &c.

Provided always, that no Justice of the Peace shall, by virtue of this Act, commit any person or persons, or take or require any security from him or them for his or their appearance as aforesaid, unless one good and sufficient Householder, being an Owner, Lessee, or Occupier of, or otherwise lawfully entitled

No Justice to commit or require security from any persons without Recognizance is entered into to prosecute.

to take or catch Oysters in the Oyster Fishery wherein the offence shall be sworn to have been committed (whose oath that he is such Owner, Lessee, or Occupier, or otherwise lawfully entitled as aforesaid, shall be sufficient Evidence thereof to such Justice), shall enter into Recognizance before the said Justice in the penalty of twenty pounds, for his appearing either at the then next Assises, or General Quarter Sessions of the Peace for the County, Riding, or Division, as the case may be, and then and there preferring and prosecuting with effect a Bill of Indictment against the person or persons so to be committed, or bound by Recognizance, for the offence or offences for which he or they shall be so committed or bound as aforesaid. s. 5.

Persons may be discharged from Confinement upon Recognizance.

If at any time after any person or persons shall have been committed in pursuance of this Act, two good and sufficient sureties shall, before the Justice by whom such person or persons was or were committed, or any other Justice of the Peace for the same County, Riding, or Division, enter into Recognizance in the penalty of twenty pounds each, with condition for the appearance of such person or persons so committed at the then next Assises, or General Quarter Sessions of the Peace for the same County, Riding, or Division, which shall first happen, then and there to answer to any Indictment or Indictments that shall or may be preferred against him or them by virtue of this Act; then and in such case it shall be lawful for any such Justice, by warrant under his hand and seal, to order such person or persons to be discharged from his or their said commitment, and delivered out of custody, and he and they shall be discharged accordingly; any thing herein contained to the contrary thereof in anywise notwithstanding. s. 6.

This Act not to affect any Act now in force respecting any particular Oyster Fishery;

Provided always, that nothing herein contained shall extend, or be construed to extend, to repeal, alter, abridge, or affect any Act of Parliament now in force respecting any particular Oyster Fishery within this Kingdom, or any clause, regulation, method of proceeding, power, matter, or thing therein; but that all and every the powers, authorities, jurisdictions, and directions contained in all such Acts of Parliament, shall and may be pursued, enforced, exercised and executed in such manner and form, and as fully, to all intents and purposes, as if this Act had not been made. s. 7.

or to preclude prosecution at the Common Law.

Provided also, that nothing herein contained shall extend, or be construed to extend; to prevent, bar, or preclude any person from commencing any prosecution or action at the Common Law for any act or offence herein-before described, which

shall be done or committed within the limits of any Oyster Fishery, in such manner and form as if this Act had not been made; but, nevertheless, when any person shall have been punished in pursuance and by virtue of this Act, for any offence against the same, such person shall not be prosecuted by virtue of any other Law or Statute, or be liable to any other punishment or penalty for the same offence, or to have any Action or Suit in Law or Equity brought against him on account of that offence for which he shall have been punished in pursuance of this Act. s. 8.

Twenty one days notice of Actions under this Act shall be given. Limitation of such Actions, six months. Defendants may plead the General Issue, and have Double Costs. s. 9. Public Act. s. 10.

Fish Ponds.

Whereas divers malicious and envious persons, being men of evil and perverse dispositions, and minding the hurt, undoing, and impoverishment of the King's Subjects, have of late practised a new damnable kind of vice, displeasure, and damnifying of the King's subjects, as in secret cutting out of Heads and Dams of Pools, Motes, Stews, and several Waters; for remedy whereof be it enacted, that if any person or persons maliciously, wilfully, and unlawfully cut or cause to be cut out of the Head or Heads, Dam or Dams, of any Ponds, Pools, Motes, Stews, or other several Waters, or the Head or Heads, Pipe or Pipes of any Conduit or Conduits of any other person, that then such offender shall not only lose and forfeit treble damages to the party grieved, but also forfeit for every offence £10 to the King as a fine. 37 H. 8. c. 6.

The punishment of persons who shall maliciously cut the head or dam of any pond, &c.;

The Statute 5 Eliz. c. 21., reciting that persons had made Ponds, Stagnes, Stews, Motes, Pits or Ponds, and stored the same with Pickerel, Breme, Tench, Carp, and divers other good kinds of Fish, and that the several Waters, Grounds, Parks, and Inclosures had not only by night been broken and entered into, but also the heads or dams of such Ponds, &c. or several Waters, have been maliciously, wilfully, and unlawfully cut out, and the fish taken, destroyed, carried away, and stolen, to the great loss and damage of the owners, and the encouragement of the offenders, &c.; for remedy thereof enacts, that if any person shall at any time, by day or by night, unlawfully without authority break, cut down, cut out, or destroy any Head or Heads, Dam or Dams of any Ponds, Pools, Motes, Stagnes, Stews, or several Pits wherein Fish are

or of such where Fish are kept, or unlawfully fishing therein.

or shall happen to be put in or stored withal by the owners or possessioners thereof, or do or shall wrongfully fish in any of the said Ponds, Pools, Motes, Stagnes, Stews, or Pits, to the intent to destroy, kill, take, or steal away any of the same Fish, against the will, mind, or pleasure of the owners or possessioners of the same, not having any lawful title or authority so to do, and thereof be lawfully convicted at the suit of the Queen, her Heirs or Successors, or the party grieved, shall suffer imprisonment for three months, and pay to the party grieved his treble damages; and after the three months expired, shall find sufficient sureties for good abearing against the Queen, &c. and all her liege people, for seven years after, or else shall continue still in prison until they can find such sufficient sureties during such seven years.

The suretiship
may be released.

It shall be lawful for the party grieved to sue his further remedy against such Offender for his Damages, and to recover the Treble Value of the Loss before Justices of Oyer and Determiner, and Justices of Assise in their Circuits, and Justices of the Peace, or elsewhere, in any Court of Record; and upon satisfaction of such Damages to the party grieved, or on the Confession thereof by the same party before such Justices in open Sessions, in the County where the Offence was committed, the party grieved may release such Suretiship of good abearing at any time. 5 Eliz. c. 21. s. 5.

Justices of Oyer and Determiner, Justices of Assise in their Circuits, and Justices of Peace and Gaol Delivery in their Sessions, shall by virtue hereof have power and authority to inquire, hear, and determine all and singular the Offences aforesaid, and award process thereupon, as well on Indictments taken before them, as by Bill of Complaint, Information, or any other Action, in which Suit or Action no Essoign, Wager of Law, nor Protection shall be allowed. s. 6.

Justices of Peace
may discharge
the party and the
sureties.

If any person shall fortune to be bound before any of the Justices before mentioned for his good abearing for Seven Years, according to this Act, and shall within such Seven Years come before the Justices of the Peace of the County where the Offence was committed, or some of them, in open Sessions, and there in such open Sessions confess and acknowledge his Offence, and be sorry therefore, and satisfy the party grieved, such Justices shall and may have power in the same open Session, or in any open Sessions afterwards in the said County within such Seven Years, if it shall seem good to their discretion, to discharge such Recognizance and Bond so taken and the parties so bound. s. 7.

If any person or persons after 1st June 1723, shall unlawfully and maliciously break down the Head or Mound of any Fish Pond, whereby the Fish shall be lost or destroyed, or shall forcibly rescue any person being lawfully in custody of any Officer or other person, for any the Offences before mentioned, or if any person or persons shall by gift or promise of Money or other Reward procure any of his Majesty's Subjects to join him or them in any such unlawful act; every person so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in cases of Felony, without Benefit of Clergy. 9 G. 1. c. 22. s. 1.

Persons maliciously breaking down the mound of any fish-pond whereby any fish are lost, &c. or forcibly rescuing such offenders, or procuring others to join them in any such acts, declared to be felony without clergy.

By s. 4, 5. Offenders not surrendering themselves after Proclamation, and persons concealing Offenders after the time appointed for such Surrender, are also ousted of Clergy.

By s. 14. Offenders may be tried in any County in England, and Corruption of Blood is saved.

The above Act, 9 G. 1. c. 22. is made perpetual by 31 G. 2. c. 42. See title BLACK ACT.

Forcible Entry and Detainer.

And also the King defendeth, that none from henceforth make any Entry into any Lands and Tenements but in case where Entry is given by the Law; and in such case not with strong hand nor with multitude of people, but only in peaceable and easy manner. And if any man from henceforth do to the contrary, and thereof be duly convict, he shall be punished by imprisonment of his body, and thereof ransomed at the King's will. 5 R. 2. c. 8.

§ F.
Godbolt, 145.
pl. 180.
None shall commit forcible entry in lands, &c.

It is accorded and assented, that the Ordinances and Statutes made and not repealed, of them that make Entries with strong hand into Lands and Tenements, or other Possessions whatsoever, and them hold with force, and also of those that make Insurrections, or great Ridings, Riots, Routs, or Assemblies, in disturbance of the Peace or of the Common Law, or in Affray of the People, shall be holden and kept and fully executed; joined to the same, that at all times that such forcible Entry shall be made, and the complaint thereof cometh to the Justices of Peace, or to any of them, that the same Justices or Justice take sufficient power of the County, and go to the place where such force is made, and if they find any that hold such place forcibly after such Entry made, they shall be taken and put in the next Gaol, there to abide Convict by the Record of

The Statutes against forcible entries, and insurrections, great riots, &c. shall be fully executed.

Justices shall take sufficient power, and take persons guilty of forcible entry and imprison them.

the same Justices or Justice, until they have made Fine and Ransom to the King; and that all the people of the County, as well the Sheriffs as other, shall be attendant upon the same Justices, to go and assist the same Justices to arrest such Offenders, upon pain of Imprisonment, and to make Fine to the King; and in the same manner it shall be done of them that make such forcible Entries in Benefices or Offices of Holy Church. 15 R. 2. c. 2.

§ 2.

The defects of
the Stat. 15 R. 2.
c. 2.

4 Co. 48.
Hob. 94.
Keilw. 207, 8.

Recital and Confirmation of Statute 15 R. 2. c. 2. And for that the said Statute doth not extend to Entries in Tenements in peaceable manner, and after holden with force, nor if the persons which enter with force into Lands and Tenements be removed and voided before the coming of the said Justices or Justice as before, nor any pain ordained if the Sheriff do not obey the Commandments and Precepts of the said Justices to execute the said Ordinance, many wrongful and forcible Entries be daily made in Lands and Tenements by such as have no right, and also divers Gifts, Feoffments, and Discontinuances sometimes made to Lords and other puissant persons and Extortioners within the said Counties where they be conversant, to have maintenance, and sometimes to such persons as be unknown to them so put out, to the intent to delay and defraud such rightful possessors of their right and recovery for ever, to the final disherison of divers of the King's faithful liege people, and likely daily to increase, if due remedy be not provided in this behalf; our Lord the King considering the premises, hath ordained that the said Statute and all other Statutes of such Entries or Alienations made in times past, shall be holden and duly executed; joined to the same, that from henceforth where any doth make any forcible Entry in Lands and Tenements or other Possessions, or them hold forcibly after Complaint thereof made within the same County where such Entry is made, to the Justices of Peace, or to one of them, by the party grieved, that the Justices or Justice so warned within a convenient time shall cause, or one of them shall cause, the said Statute duly to be executed, and that at the Costs of the party so grieved. 8 H. 6. c. 9. s. 2.

The duty of Jus-
tices of Peace
when any forcible
entry be made
into lands, &c.
or peaceable
entry and forcible
retainer.

Carthew, 49.

The remedy
where persons
entering by force
alien the same
lands to have
maintenance.

1 Leonard, 327.
Dyer, 122. 187.

And moreover, though that such persons making such Entry be present, or else departed, before the coming of the said Justice or Justices, notwithstanding the same Justices or Justice in some good Town next to the Tenements so entered, or in some other convenient place, according to their discretion, shall have, or either of them shall have Authority and Power to inquire by the people of the same County, as well of them

that make such forcible Entries in Lands and Tenements as of them which the same hold with force; and if it be found before any of them that any doth contrary to this Statute, then the said Justices or Justice shall cause to reseise the Lands and Tenements so entered or holden as afore, and shall put the party so put out in full possession of the same Lands and Tenements so entered or holden as before; and if any person after such Entry into Lands or Tenements holden with force make a Feoffment or other Discontinuance to any Lord or other person, to have Maintenance, or to take away and defraud the possessor of his recovery, in anywise, if after in Assise or other Action thereof to be taken or pursued before Justices of Assises or other the King's Justices whatsoever, by due inquiry thereof to be taken, the same Feoffments and Discontinuances may be duly proved to be made for Maintenance as afore is said, that then such Feoffments or other Discontinuance so as before made shall be void, frustrate, and holden for none. 8 H. 6. c. 9. s. 3.

9 Co. 118.
11 Co. 65.
7 Ed. 4. c. 8.
4 H. 7. c. 18.
Cro. Eliz. 184.
189. 306. 458.
461. 582. 654.
738. 915.
Cro. Jac. 17. 19.
31. 41. 148.
151. 176. 214.
Cro. Car. 201.

And also when the said Justices or Justice make such inquiries as before, they shall make, or one of them shall make their Warrants and Precepts, to be directed to the Sheriff of the same County, commanding him of the King's behalf to cause to come before them and every of them, sufficient and indifferent persons dwelling next about the Lands so entered as before, to inquire of such entries, whereof every man which shall be impannelled to inquire in this behalf shall have Land or Tenement of the yearly value of Forty Shillings by year at the least, above reprises; and that the Sheriff return Issues upon every of them at the day of the first precept returnable, twenty shillings, and at the second day forty shillings, and at the third time one hundred shillings, and at every day after, the double; and if any Sheriff or Bailiff within a Franchise, having return of the King's writ, be slack and make not execution duly of the said Precepts to him directed to make such inquiries, that he shall forfeit to the King xx. li. for every default, and moreover shall make fine and ransom to the King. s. 4.

The Justices precept to the Sheriff to return a Jury to enquire of forcible entries.

Their qualification.

Penalty on Sheriffs neglecting their duty.

And that as well the Justices or Justice aforesaid as the Justices of Assises and every of them, at the coming into the County to take Assises, shall have, and every of them shall have power to hear and determine such defaults and negligences of the said Sheriffs and Bailiffs and every of them, as well by Bill at the suit of the party grieved for himself as for the King, to sue by Indictment only to be taken for the King; and if the Sheriff or Bailiff be duly attainted in this behalf by Indictment or by

Who shall hear and determine offences.

Bill, that he which sueth for himself and for the King have the moiety of the forfeiture of xx. li., together with his costs and expences; and that the same Process be made against such persons indicted or sued by Bill in this behalf as should be against persons indicted or sued by Writ of Trespass done with force and arms against the peace of the King. 8 H. 6. c. 9. s. 5.

Holding with
force.

And moreover if any person be put out or diseised of any Lands or Tenements in forcible manner, or put out peaceably, and after holden out with strong hand; or after such entry, any Feoffment or Discontinuance in anywise thereof be made to defraud and take away the right of the possessor, that the party grieved shall have Assise of Novel Disseisin, or a Writ of Trespass, against such Disseisor; and if the party grieved recover by Assise or by Action of Trespass, and it be found by verdict, or in other manner by due form in the Law, that the party defendant entered with force into the Lands and Tenements, or them after his entry did hold with force, that the Plaintiff shall recover his treble damages against the defendant; and moreover that he make Fine and Ransom to the King. And that Mayors, Justices or Justice of Peace, Sheriffs and Bailiffs of Cities, Towns, and Boroughs having Franchise, have in the said Cities, Towns and Boroughs, like power to remove such entries, and in other articles aforesaid rising within the same, as the Justices of Peace and Sheriffs in Counties and Countries aforesaid have. s. 6.

Three years
possession.

Provided always, that they which keep their possessions with force in any Lands and Tenements whereof they or their ancestors, or they whose estate they have in such Lands and Tenements have continued their possessions in the same by three years or more, be not endamaged by force of this Statute. s. 7.

§ 3.

No restitution shall be made if the party hath been in occupation or quiet possession for three years, and his estate not ended.

Raym. 83. 85.
Dyer, 141.

Costs, &c. in certain cases.

No Restitution upon any indictment of forcible entry or holding with force, shall be made to any person, if the person so indicted hath had the occupation or hath been in quiet possession for three whole years together next before the day of such Indictment so found, and his estate therein not ended, which the party indicted shall and may alledge for stay of Restitution, and Restitution to stay until that be tried if the other will deny or traverse the same; and if the same allegation be tried against the same person so indicted, then the person so indicted to pay such Costs and Damages to the other party as shall be assessed by the Judges or Justices before whom the same shall be tried, such Costs and Damages to be recovered and levied as is usual for Costs and Damages in Judgments upon other Actions. 31 Eliz. c. 11. s. 3.

Such Judges, Justices or Justice of the Peace as by reason of any Act or Acts of Parliament now in force are authorized and enabled, upon Enquiry, to give Restitution of possession unto Tenants of any Estate of Freehold of their Lands or Tenements which shall be entered upon with force, or from them withholden by force, shall by reason of this Act have the same authority and ability from henceforth (upon indictment of such forcible entries or forcible withholdings, before them duly found) to give like Restitution of possession unto Tenants for term of years, Tenants by copy of Court Roll, Guardians by Knight Service, Tenants by Elegit, Statute Merchant and Staple, of Lands or Tenements by them so holden, which shall be entered upon by force, or holden from them by force. 21 Jac. 1. c. 15.

§ 4.
Justices may give restitution to tenants for terms of years, &c.

Latch, 183.

Foreign Power.

The Statute 1 Eliz. c. 1., which is intituled "An Act to restore to the Crown the Ancient Jurisdiction over the Estate Ecclesiastical and Spiritual, and abolishing all Foreign Power repugnant to the same," enacts (s. 27.) that "for the utter Extinction of all Foreign and usurped Authority," If any person or persons dwelling or inhabiting in this Realm, or in any other of the King's Realms or Dominions, shall by writing, printing, teaching, preaching, express words, deed or act, advisedly, maliciously and directly affirm, hold, stand with, set forth, maintain or defend, the Authority, Preheminence, Power, or Jurisdiction, Spiritual or Ecclesiastical, of any Foreign Prince, Prelate, Person, State, or Potentate whatsoever, heretofore claimed, used, or usurped in this Realm, or any Dominion or Country being within or under the Power, Dominion, or Obedience of the King, or shall advisedly, maliciously, and directly put in Ure or execute any thing for the extolling, advancement, setting forth, maintenance, or defence of any such pretended or usurped Jurisdiction, Power, Preheminence and Authority, or any part thereof, every person so doing and offending, their Abettors, Aiders, Procurers, and Counsellors, being thereof lawfully convicted and attainted according to the due order and course of the Common Laws of this Realm, shall for the first offence forfeit all his goods and chattels, as well real as personal.

The penalty for maintaining any foreign authority.

Dyer, 363.

And if such goods, &c. are not worth £20, he shall, over the Forfeiture of all such goods, &c., be imprisoned for one whole year, without bail or mainprize. s. 28.

Spiritual persons committing such offences shall lose their benefices and promotions; second offence, Premunire; third offence shall be High Treason.

Limitation of prosecutions.

Trial of peers.

Two witnesses necessary to convict persons giving relief to offenders.

It shall be felony to go out of the Kingdom with intent to serve any Foreign Power, before taking the oath here mentioned.

3 Inst. 80.

No gentleman, captain, &c. shall serve any Foreign Power, without being bound to the king.

And also all the Benefices and Ecclesiastical Promotions and Dignities of every Spiritual Person so convicted and attainted, shall be utterly void; and for a second offence the offender shall incur the pains of Premunire. 1 Eliz. c. 1. s. 29.

The third offence shall be High Treason, and the offenders, on conviction and attainder, shall suffer and forfeit as in other cases of High Treason. s. 30.

Prosecutions for offences in preaching, teaching, or words, shall be within one half year; and persons imprisoned for such offences one half year, and not indicted, shall be discharged. s. 31.

Peers indicted for offences made Premunire or Treason by this Act, shall be tried by their Peers. s. 34.

Persons giving relief, aid, or comfort to offenders in Premunire or Treason by this Act, shall only be convicted by the oath of two sufficient witnesses, at the least, who will openly testify and declare, that the persons giving such relief, &c. had knowledge of such offence done by such offender at the time of such relief given. s. 38.

Every subject of this Realm that shall go or pass out of this Realm to serve any Foreign Prince, State, or Potentate, or shall pass over the Sea, and shall there voluntarily serve any such Foreign Prince, State, or Potentate, not having, before his or their going or passing as aforesaid, taken the oath [prescribed by s. 19. of the Act; but see the form in 1 W. & M. st. 1. c. 2., under Title OATHS] before the Officer appointed (1), shall be a Felon. 3 Jac. 1. c. 4. s. 18.

If any Gentleman or person of higher degree, or any person which hath borne or shall bear any office or place of Captain, Lieutenant, or any other place, charge, or office in Camp, Army, or Company of Soldiers, or Conductor of Soldiers, shall after go or pass voluntarily out of this Realm to serve any such Foreign Prince, State, or Potentate, or shall voluntarily serve any such Prince, State, or Potentate before that he and they shall become bound by two sureties not to be reconciled to the See of Rome, or to enter into any Conspiracy against the King, he shall be a Felon. 3 Jac. 1. c. 4. s. 19.

(1) The Customer and Comptroller of every Port, Haven, or Creek, or their Deputy. s. 21.

Forgery.

(And see Title SEAMEN.)

- I. *Forging or Counterfeiting the Great or Privy Seal, Sign Manual, or Privy Signet, a capital Felony by the Statutes 25 Ed. 3. st. 5. c. 2. and 1 M. st. 2. c. 6.*
- II. *Forgeries relating to the Transfer of Public Funds, and the Stocks of public Companies.*
- III. *Forging the Notes and other Securities of the Bank of England, and other Public Companies.*
 - i. *Bank Notes and other Securities of the Bank of England.*
 - ii. *Securities of the South Sea Company.*
 - iii. *Securities of the London, Royal Exchange, and Globe Insurance Companies.*
 - iv. *Securities of the East India Company.*
 - v. *The Seal, or any Security, of the British Plate Glass Manufactory.*
 - vi. *The Seal, or any Security, of the English Linen Company.*
- IV. *Forging the Handwriting, Draft, or other Instrument of Public Officers.*
- V. *Forgeries relating to the Stamp Duties.*
- VI. *Forgeries relating to official Papers, Securities, and Documents.*
 - i. *Forging, &c. Memorials (or Certificates thereof) of Deeds and Wills, and of Bargains and Sales, and other Conveyances, &c. in Middlesex and Yorkshire.*
 - ii. *Forging Documents relating to Suitors in Chancery.*
 - iii. *Forging Mediterranean Passes.*
 - iv. *Forging Marriage Registers or Licences, or Registers, &c. of Births, Baptisms, or Burials.*
 - v. *Forging Franks of Letters or Stamps, or Marks designating the Postage on Letters, &c.*
 - vi. *Forging any Exchequer Bill, or the Indorsement thereof, or Certificates, Debentures, &c. relating to certain Annuities granted to redeem Exchequer Bills.*
 - vii. *Forging any Share, Chance, or Agreement relating to Lottery Tickets.*

- VI. viii. *Making, signing, or giving any false Certificate, Bill of Parcels, &c. relating to the Purchase of Naval, Ordnance, or Victualling Stores.*
- ix. *Forging any Certificate, Receipt, or Note under the Vagrant Act.*
- x. *Forging Instruments used in transacting the Redemption and Sale of the Land Tax.*
- VII. *Forgeries relating to private Papers, Securities, and Documents.*
- i. *Forging Deeds, Charters, Writings, sealed Court Rolls, or Wills.*
- ii. *Forging any Deed, Will, Testament, Bond, Writing Obligatory, Bill of Exchange, Promissory Note, Indorsement, Assignment, or Acceptance thereof, Acquittance or Receipt for Money or Goods, or the number or principal Sum of any accountable Receipt for any Note, Bill, or other Security for Payment of Money, or any Warrant or Order for Payment of Money or Delivery of Goods, or uttering or publishing the same.*
- iii. *Forging Foreign Bills of Exchange, &c. or Engraving Plates, &c. for such Bills, &c.*

I. *Forging or Counterfeiting the Great or Privy Seal, Sign Manual, or Privy Signet.*

(And see Title TREASON.)

Forging the great seal, sign manual, or privy signet or seal, shall be Treason.

If a man counterfeit the King's Great or Privy Seal, it shall be judged Treason. 25 Ed. 3. st. 5. c. 2. See this Act under the Title TREASON.

Persons forging, &c. the Sign Manual or Privy Signet, ousted of clergy.

The Statute 1 M. st. 2. c. 6. (re-enacting the Statute 27 H. 8. c. 2., which had been repealed by 1 M. c. 1. though saved by 1 Ed. 6. c. 12. s. 8.) reciting, that forasmuch as by Law small and no due condign punishment is at this present time provided for such persons as shall counterfeit the Queen's Highness Sign Manual, or Privy Signet, or Privy Seal, enacts, that if any person do falsely forge or counterfeit the Queen's Sign Manual, Privy Signet, or Privy Seal, that then every such offence shall be deemed and judged High Treason, and the Offenders therein, their Counsellors, Procurers, Aiders, and Abettors, being convict according to the Laws of this Realm of any of the said offences, shall be likewise deemed and adjudged Traitors against

the Queen, her Heirs and Successors, and the Realm, and shall suffer and have such pains of Death, forfeiture of Lands, Goods, and Chattels, as in the case of High Treason is used and ordained.

By the Statute 1, 2 P. & M. c. 10. s. 12. it is provided, that in all cases of High Treason for counterfeiting the King or Queen's Signet, Privy Seal, Great Seal, or Sign Manual, such trial and none other be observed as heretofore hath been used by the Common Law; any Law, Statute, or any other thing to the contrary notwithstanding.

How such offences shall be tried.

II. Forgeries relating to the Transfer of Public Funds, and the Stocks of Public Companies.

Whereas of late divers frauds and abuses have been committed by forging and counterfeiting the hands of some of the Proprietors of the Shares of and in the capital Stock and Funds of such Body or Bodies Politic or Corporate as are established by Act or Acts of Parliament in that behalf, or some of them, or by forging or counterfeiting the hands of persons entitled to the Dividends attending the said Shares, or some of them, or by forging or counterfeiting the hands of persons entitled to Annuities, in respect the Proprietors have transferrable Shares in a capital Stock or Stocks established by Act or Acts of Parliament, in proportion to their respective Annuities; and divers frauds and abuses have been or may be committed by persons falsely and deceitfully personating the true and real Proprietors of the said Shares in Stock, Annuities, and Dividends, or some of them: now, for the better preventing such pernicious practices, be it enacted, that if any person or persons whatsoever, from and after the 1st March 1721, shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting any Letter of Attorney, or other Authority or Instrument, to transfer, assign, sell, or convey any such Share or Shares, or any part of such Share or Shares of and in such capital Stock or Stocks as aforesaid, or any of them, or to receive any such Annuity or Annuities, Dividend or Dividends as aforesaid, or any of them, or any part thereof, or shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting any the name or names of any the Proprietors of any such Share or Shares in Stock, or of any the persons entitled to any such Annuity or Annuities, Dividend or Dividends as aforesaid, in or to any such pretended Letter of Attorney, In-

Forging letters of attorney, &c. or counterfeiting names of proprietors of stock, &c. created by act of parliament, or personating such proprietors, &c. declared to be Felony without clergy.

strument, or Authority, or shall knowingly and fraudulently demand or endeavour to have any such Share or Shares in Stock, or any part thereof, transferred, assigned, sold, or conveyed, or such Annuity or Annuities, Dividend or Dividends, or any part thereof, to be received by virtue of any such counterfeit or forged Letter of Attorney, Authority, or Instrument, or shall falsely and deceitfully personate any true and real Proprietors of the said Shares in Stock, Annuities, and Dividends, or any of them, or any part thereof, and thereby transferring or endeavouring to transfer the Stock, or receiving or endeavouring to receive the money of such true and lawful Proprietor, as if such offender were the true and lawful owner thereof, then and in every or any such case, all and every such person and persons (being thereof lawfully convicted in due form of law) shall be adjudged guilty of Felony, and shall suffer as in cases of felony, without benefit of Clergy. 8 G. 1. c. 22. s. 1.

The Statute 31 G. 2. c. 22. s. 77. reciting, that “doubts may arise whether the punishment inflicted by the Act of 8 G. 1. extended the like forgery and offences in relation to such capital Stock and Funds as had been established by authority of Parliament since the passing of that Act, or that may be thereafter established;” enacts, if any person or persons whatsoever, from and after 1st July 1758, shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting, any Letter of Attorney, or other Authority or Instrument to transfer, assign, sell, or convey any Share or Shares, or any part of any Share or Shares of or in any such capital Stock or Funds of any Body or Bodies Politic or Corporate established, or which shall be established by any Act or Acts of Parliament, or to receive any Dividend or Dividends attending any Share or Shares, or any part of any Share or Shares of or in any such capital Stock or Funds as aforesaid, or to receive any Annuity or Annuities in respect whereof any Proprietor or Proprietors have or shall have any transferrable Share or Shares of or in any capital Stock or Stocks which now are or hereafter shall be established by any Act or Acts of Parliament, in proportion to their respective Annuities; or shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting any the name or names of any the Proprietors of any such Share or Shares in Stock, or of any the persons entitled to any such Annuity or Annuities, Dividend or Dividends as aforesaid, in or to any such pretended Letter of Attorney, Instrument, or

Authority; or shall knowingly and fraudulently demand, or endeavour to have any such Share or Shares in Stock, or any part thereof, transferred, assigned, sold, or conveyed, or such Annuity or Annuities, Dividend or Dividends, or any part thereof, to be received by virtue of any such counterfeit or forged Letter of Attorney, Authority, or Instrument, or shall falsely and deceitfully personate any true and real Proprietors of the said Shares in Stock, Annuities, and Dividends, or any of them, or any part thereof, and thereby transferring or endeavouring to transfer the Stock, or receiving or endeavouring to receive the money of such true and lawful Proprietor, as if such offender were the true and lawful owner thereof; then and in every or any such case, all and every such person and persons, being thereof lawfully convicted in due form of Law, shall be deemed guilty of Felony, and suffer Death as a felon, without benefit of Clergy. s. 77.

The Statute 9 G. 1. c. 12. "for the more easy assigning or transferring certain redeemable Annuities payable at the Exchequer, by Endorsements on the Standing Orders of the same," enables the proprietors of the said Standing Orders made forth or to be made forth in pursuance of the Acts relating thereto, (6 G. 1. c. 12. s. 17., 7 G. 1. st. 1. c. 30., 8 G. 1. c. 20. s. 43.) by proper words of assignment to be endorsed on such orders, to assign or transfer their right, &c. and benefit of such order to any other person; and by s. 4. enacts, that if any person or persons whatsoever, after 2 April 1723, shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly or wilfully act and assist in the forging or counterfeiting, any order or orders made forth or to be made forth in pursuance of any the before mentioned Acts or of this present Act, of any assignment or assignments of such order or orders, or of the annuities payable thereon, or of any receipt or discharge to the Exchequer for the annuities due or to grow due on any such standing order or orders, or of any Letter of Attorney or other authority or instrument to transfer, assign, alien, or convey any such order or orders, or to receive the annuities due or to grow due thereon, or any part thereof; or shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly or wilfully act or assist in the forging or counterfeiting, any the name or names of any of the proprietors of any such order or orders in or to any such pretended Assignment, Receipt, Letter of Attorney, Instrument, or Authority; or shall knowingly and fraudulently demand or endeavour to have or receive any such Annuity

Persons forging, &c. certain assignments or orders here mentioned, or personating the proprietor of certain orders, shall be guilty of felony without clergy.

or Annuities, or any part thereof, by virtue of any such forged or counterfeited Receipt, Letter of Attorney, Instrument or Authority; or shall falsely and deceitfully personate any true and real proprietor or proprietors of any of the said order or orders, and thereby assigning or endeavouring to assign any of the said order or orders, or receiving or endeavouring to receive the money of such true and lawful proprietors as if such offender were the true and lawful owner thereof; then and in every or any such case, all and every such person and persons (being thereof lawfully convicted in due form of Law) shall be adjudged guilty of Felony, and shall suffer as in cases of Felony without benefit of Clergy.

Persons forging, &c. any register certificate, or personating nominees of life annuities, declared guilty of Felony, without benefit of clergy.

The Statute 48 G. 3. c. 142. "for enabling the Commissioners for the reduction of the National Debt to grant Life Annuities," enacts (s. 27.) that if any person or persons shall forge, counterfeit or alter, or cause or procure to be forged, counterfeited, or altered, or knowingly or wilfully act or assist in the forging, counterfeiting or altering, any Register or Registers of the Birth or Baptism of any person or persons to be appointed a Nominee or Nominees under the provisions of this Act, or any Copy or Certificate of any such Register, or the name or names of any witness or witnesses to any such Certificate, or any Affidavit or Affirmation required to be taken for any of the purposes of this Act, or the Certificate of any Judge, Baron of the Exchequer, Justice of the Peace or Magistrate, of any such Affidavit or Affirmation having taken place before him, or any Certificate of any Governor or person acting as such, or Minister, or Consul, or Chief Magistrate of any Province, Town, or Place, or other person authorized by this Act to grant any Certificate of the life or death of any Nominee, or any Certificate or Certificates of the Officer to be appointed by the said Commissioners for the reduction of the National Debt, or of any Cashier or Clerk of the Bank of England; or shall forge or counterfeit, or shall cause or procure to be forged or counterfeited, or shall knowingly or wilfully act or assist in the forging or counterfeiting, the name or names of any person or persons in or to any transfer of Bank Annuities for the purchase of any Life Annuity, or in or to any transfer or acceptance of any Life Annuity in the books of the Governor and Company of the Bank of England, or any receipt or discharge for any Life Annuity, or for any payment or payments due or to become due thereon, or to any Letter of Attorney or other Authority or Instrument to transfer or accept any Bank Annuities or Life Annuities under the pro-

visions of this Act, or to receive any Life Annuities, or any payment or payments due or to become due thereon; or shall wilfully, falsely, and deceitfully personate any true and real Nominee or Nominees; or shall wilfully deliver or produce to any person or persons acting under the authority of this Act, or shall utter, any such forged Register, Certificate, Affidavit, or Affirmation, knowing the same to be forged, counterfeited, or altered, with intent to defraud his Majesty, his Heirs and Successors, or any other person or persons whomsoever; then and in every such case, all and every person or persons so offending, and being lawfully convicted thereof, shall be adjudged guilty of Felony, and shall suffer death as in cases of Felony, without benefit of Clergy. (1)

The Statute 49 G. 3. c. 64. (for amending the Stat. 48 G. 3. c. 142.) directs, that instead of the Certificates, &c. required by that Act, the Certificates in the Schedule shall be used when the Nominees appear; and then (by s. 3.) enacts, that if any person or persons shall wilfully, falsely, and deceitfully personate any true and real Nominee or Nominees, or shall wilfully, falsely, and deceitfully represent any other person or persons than the true and real Nominee or Nominees to be such true or real Nominee or Nominees, or shall forge, counterfeit, or alter, or act or assist in forging, counterfeiting, or altering, any Certificate or Certificates to be granted by the said Officer in pursuance of this Act, or shall utter any such forged Certificate, knowing the same to be forged, counterfeited, or altered, with intent to defraud his Majesty, his heirs and successors, or any other person or persons whomsoever, that then and in every such case all and every such person or persons so offending, and being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in cases of Felony, without benefit of Clergy.

The Statute 54 G. 3. c. 70. "for the further Improvement of the Land Revenue of the Crown," enacts (s. 38.) that if any person or persons shall forge, counterfeit, or alter, or cause or procure to be forged, counterfeited, or altered, or knowingly and wilfully act or assist in forging, counterfeiting, or altering, the name or names of any person or persons in or to any Transfer of any Bank Annuities or Funds by this Act autho-

Persons forging transfers, &c. of stock relating to the land revenue of the Crown, ousted of clergy.

(1) A clause very similar to this is to be found in the Statute 29 Geo. 3. c. 41. (s. 36.) "For raising a sum of Money by Annuities, with benefit of Survivorship in Classes."

rized or directed to be sold, assigned, transferred, or disposed of, or to any receipt or discharge for any Dividends or Payments due or to become due thereon; or to any Letter of Attorney, Warrant, or other Instrument to sell, assign, transfer, or dispose of any such Bank Annuities or Funds, or to receive any Dividends or Payments due or to become due thereon; or to any Letter of Attorney, Deed, Warrant, Instrument, or Writing whatsoever, for or in order to the receiving or obtaining any of the Money which is or shall be in the hands or custody of the Governor and Company of the Bank of England, or of any other person or persons, under any of the provisions of this Act; or shall produce, utter, or publish any such Letter of Attorney, Draft, Warrant, Instrument, or Writing, knowing the same to be forged or counterfeited, with an intent to defraud his Majesty, his heirs or successors, or the said Governor and Company, or any other person or persons whomsoever, every person so offending, and being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in cases of Felony, without benefit of Clergy.

Persons forging,
&c. any power of
attorney to trans-
fer stock, or re-
ceive dividends
or annuities of
any corporation :

The Statute 4 G. 3. c. 25. recites, that "it is necessary that provision should be made for more effectually preventing the forging Powers to transfer any such Stock, or to receive such Dividends or Annuities as are herein-after mentioned, and the fraudulently personating the Owners thereof;" and then (by s. 15.) enacts, that if any person or persons whatsoever, from and after 1 May 1764, shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting, any Letter of Attorney, or other Security or Instrument to transfer, assign, sell, or convey any Share or Shares, or any part of any Share or Shares of and in any capital Stock or Stocks of any Body or Bodies Politic or Corporate, which now are or hereafter shall be established by any Act or Acts of Parliament, or any Share or Shares, or any part of any Share or Shares of and in any Annuities, in respect whereof the Proprietors of such Annuities have or shall have transferrable Shares in any Capital Stock or Stocks now established, or which shall hereafter be established by any Act or Acts of Parliament, in proportion to their respective Annuities, or any Share or Shares, or any part of any Share or Shares of or in any other transferrable Annuities which now are or hereafter shall be established by any Act or Acts of Parliament, or to receive any such Annuity or Annuities, or any Dividend or Dividends attending such Shares, or any of them, or any

part thereof; or shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting, any the name or names of any the Proprietors of any such Share or Shares in Stock, or of any the persons entitled to any such Annuity or Annuities, Dividend or Dividends as aforesaid, in or to any such pretended Letter of Attorney or Authority; or shall knowingly and fraudulently demand or endeavour to have any such Share or Shares in Stock or Annuities, or any Part thereof, transferred, assigned, sold, or conveyed, or such Annuity or Annuities, Dividend or Dividends, or any part thereof, to be received by virtue of any such counterfeit or forged Letter of Attorney, Authority or Instrument; or shall falsely and deceitfully person-^{or personating the proprietor thereof;}ate any true and real Proprietor of the said Shares in Stock, Annuities, and Dividends, or any of them, or any part thereof, and thereby transferring or endeavouring to transfer the Stock or Annuities, or receiving or endeavouring to receive the money of such true and lawful Proprietor, as if such offender was the true and lawful Owner thereof; then and in every or any such case, all and every such person and persons, being thereof law-^{shall be guilty of felony, without clergy.}fully convicted in due form of Law, shall be adjudged guilty of Felony, and shall suffer as in cases of Felony, without benefit of Clergy.

This Act shall be deemed, adjudged, and taken to be a public Act, and be judicially taken notice of by all Judges, Justices, or other persons whatsoever, without specially pleading the same. s. 16.

The Statute 33 G. 3. c. 30. "for the *better* preventing Forgeries and Frauds in the Transfers of the several Funds transferrable at the Bank of England," recites, that "the Laws now in being have been found insufficient to prevent Forgeries and Frauds in the transferring Stocks, Annuities, and other Public Funds, transferrable at the Bank of England: And that for the better preventing such Forgeries and Frauds in future, it is necessary that further provision should be made, as well to prevent Frauds practised by persons taking upon themselves to make Transfers in the Books of the Governor and Company of the Bank of England, of Stock or Annuities, or other Funds transferrable as aforesaid, whereof such persons are not the true Owners and Proprietors, as to prevent Forgeries of such Transfers in the Names of the true Owners or Proprietors: And that it is also necessary, the better to prevent such Forgeries and Frauds, that the public Accounts between the Governor and

Persons making,
or assisting in
making, transfers
of stock in any
other names than
the owners,
guilty of felony ;

Company of the Bank of England and the several Owners and Proprietors of Stock, Annuities, and other Funds transferrable at the Bank of England, should be secured from Falsification by means of false Entries therein, or of the Alteration of any of the Words or Figures thereof, or by any other ways or means whatsoever;" and then enacts, that from and after the 10th May 1793, if any person or persons shall willfully make, or assist in making, any Transfer of any Interest, Part, or Share of or in any Stock or Stocks, Annuity or Annuities, or other Funds transferrable at the Bank of England, in any of the Books of the said Governor and Company of the Bank of England, in which Transfers of Stock, Annuities, or other Funds as aforesaid are made, in the Name or Names of any person or persons not being the Owner or Owners, or Proprietor or Proprietors, of such Stock, Annuities, or other Funds transferrable as aforesaid, with intent to defraud the said Governor and Company of the Bank of England, or any other Body Politic or Corporate, or any person or persons whatsoever, such person or persons so making or assisting in making such Transfer as aforesaid, shall be deemed guilty of Felony, and shall suffer Death as a Felon or Felons, without Benefit of Clergy. s. 1.

also persons
forging, or assist-
ing in forging,
transfers, &c. ;

If any person or persons whatsoever shall, from and after the 10th May 1793, falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or shall willingly act or assist in the falsely making, forging, or counterfeiting of any Transfer of any Interest, Part, or Share of or in any Stock or Stocks, Annuity or Annuities, or other Funds transferrable, or which by any Act or Acts of Parliament shall hereafter be made transferrable at the Bank of England, or of or in the Capital Stock belonging, or which hereafter shall or may belong to the said Governor and Company of the Bank of England, called Bank Stock; or shall utter or publish as true any such false, forged, or counterfeited Transfer as aforesaid, knowing the same to be false, forged, or counterfeited, with intent to defraud the said Governor and Company of the Bank of England, or any other Body Politic or Corporate, or any person or persons whatsoever; all and every person or persons whatsoever so offending shall be deemed guilty of Felony, and shall suffer Death as a Felon or Felons, without Benefit of Clergy. s. 2.

and also persons
making, or assist-
ing in making,

From and after the said 10th May 1793, if any person or persons shall wilfully make, or assist in making, any false Entry,

or shall wilfully alter, or assist in altering, any Word or Figure in any Entry in the Books of Account kept by the said Governor and Company of the Bank of England, wherein the several Accounts of the Owners or Proprietors of Stock, Annuities, or other Funds transferrable at the Bank of England, are entered and kept, or shall in any manner wilfully falsify the Accounts of such Owners and Proprietors in the Books of the said Governor and Company, wherein such Accounts are entered and kept, with intent to defraud the said Governor and Company of the Bank of England, or any other Body Politic or Corporate, or any person or persons whatsoever; every such person or persons so offending shall be deemed guilty of Felony, and shall suffer Death as a Felon or Felons, without Benefit of Clergy. 33 G. 3. c. 30. s. 3.

false entries in the books of the Bank, &c.

“ And whereas, in order to cover and conceal Forgeries and Frauds in Transfers, Dividend Warrants have been sometimes made out for different Sums than the Sums really due;” be it therefore further enacted, that if any Clerk, Officer, or Servant of, or other person or persons employed or intrusted by the said Governor and Company, shall, from and after the said 10th May 1793, knowingly or willingly make out or deliver, or cause or procure to be made out or delivered, or willingly act or assist in the making out or delivering of any Dividend Warrant for a greater or less Amount than the person or persons on whose behalf, or pretended behalf, such Dividend Warrants shall be made out, is or are entitled to, with intent to defraud the said Governor and Company of the Bank of England, or any other Body Politic or Corporate, or any person or persons whatsoever; all and every such person or persons so offending, and being in due form of Law convicted of any such offence or offences as aforesaid, shall be transported for Seven Years. s. 4.

Persons making out, &c. false dividend warrants, to be transported for 14 years.

The Statute 37 G. 3. c. 122., intituled “ An Act for the better preventing the forging or counterfeiting the names of Witnesses to Letters of Attorney, or other Authorities or Instruments, for the transfer of Stocks or Funds which now are, or by any Act or Acts of Parliament shall hereafter be made transferrable at the Bank of England; or for the transfer of any part of the capital Stock of the Governor and Company of the Bank of England, called Bank Stock; or for the transfer of any part of the capital Stock, or any Stocks or Funds under the management of the South Sea Company; or for the transfer of any part of the capital Stock of the East India Company; or for the re-

ceipt of Dividends upon any of such Stocks or Funds;" recites, that by the several Acts of Parliament creating and authorizing the transfer and management of the Public Stocks, Funds, and Annuities transferrable at the Bank of England, it is provided, that all assignments or transfers thereof shall be entered and registered in books to be kept by the Accountant General of the Governor and Company of the Bank of England, which Entries shall be signed by the parties making such assignments or transfers, or if such parties be absent, by their respective Attorney or Attornies thereunto lawfully authorized in writing under his, her, or their hand and seal, or hands and seals, to be attested by two or more credible witnesses; and the same regulation is prescribed and observed with respect to the attestation of Letters of Attorney for the transfer of any part of the capital Stock of the said Governor and Company, called Bank Stock; and that, by an Act of Parliament made and passed in the ninth year of the reign of her late Majesty Queen Anne, and by the Charter of the Company of Merchants of Great Britain trading to the South Seas and other parts of America, and for encouraging the Fishery commonly called The South Sea Company, and by several Acts of Parliament creating and authorizing the transfer and management of the Stock of the said Company, commonly called South Sea Stock, and other Stocks and Funds arising thereout, or transferrable at the South Sea House, it is provided, that all assignments and transfers thereof shall be entered and registered in books kept by the said Governor and Company, which Entries shall be signed by the parties making such assignments and transfers, or if such parties be absent, by their respective Attorney or Attornies, thereunto lawfully authorized in writing under his, her, or their hand and seal, or hands and seals; and that all assignments and transfers of the capital Stock of the United Company of Merchants of England trading to the East Indies, are entered and registered in books kept by the said United Company, and such assignments and transfers shall be signed by the parties making the same; and if such parties be absent, then by their respective Attorney or Attornies thereunto authorized in writing under his or their hand and seal, or hands and seals; and that it is expedient that provision should be made for the prevention of all Frauds and Impositions upon the said respective Governors and Companies, and the said United Company, respecting the transfer of, or the receipt of Dividends upon any of the Public Funds or Annuities transferrable at the Bank of England, or of Bank Stock, or of the capital Stock of the said

South Sea Company, or of the said United Company, or any other Stocks or Funds arising thereout, or transferrable or which shall hereafter be made transferrable at the South Sea House or East India House respectively; and then enacts, that if any person or persons whatever shall, from and after the 1st day of August 1797, falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or shall willingly act or assist in the falsely making, forging, or counterfeiting, the name or names, hand writing or hands writing, of any person or persons as, or purporting to be, the witness or witnesses attesting the execution of any Letter of Attorney, or other Authority or Instrument, to transfer, assign, sell, or convey any interest, part, or share of or in any Stock or Stocks, Annuity or Annuities, or other Funds, or the Dividends thereof, transferrable, or which, by any Act or Acts of Parliament, shall hereafter be made transferrable at the Bank of England, or of or in the capital Stock belonging, or which hereafter shall or may belong to the Governor and Company of the Bank of England, called Bank Stock, or to the Governor and Company of Merchants of Great Britain trading to the South Seas and other parts of America, and for encouraging the Fishery as aforesaid, or under their care or management, or of or in the capital Stock belonging, or which hereafter shall or may belong to the said United Company of Merchants of England trading to the East Indies, commonly called East India Stock, or of any Letter of Attorney, or other Authority or Instrument, to receive any Dividend or Dividends on any of the said Stocks, Annuities, or other Funds, or shall utter or publish as true any such Letter of Attorney, or other Authority or Instrument, containing such false, forged, or counterfeited name or names, hand writing or hands writing, of such attesting witness or witnesses as aforesaid, knowing such name or names, hand writing or hands writing, to be false, forged, or counterfeited, all and every person or persons whatever so offending, and being in due form of law convicted of any such offence or offences as aforesaid, shall be adjudged guilty of Felony, and shall be transported for Seven Years, or shall be adjudged to suffer such lesser punishment as the Court, before whom such offender or offenders shall be tried, shall think fit to award. s. 1. Public Act. s. 2.

From August 1, 1797, persons forging the names of witnesses to instruments for the transfer or receipt of dividends of stocks at the Bank, or of the South Sea or East India Company's stocks, to be guilty of felony.

The Statutes 35 G. 3. c. 66. and 37 G. 3. c. 46. (1) for making certain Annuities created by the Parliament of Ireland

(1) The provisions of these Acts are precisely similar, with the slight alteration noticed in the third section.

Books to be kept
for entering
transfers of an-
nuities, &c.

No stamp duties
to be charged.

Persons forging
or altering, &c.
receipts or de-
bentures, to
suffer Death.

transferrable and the Dividends thereon payable at the Bank of England, enacts, that it shall and may be lawful for the Governor and Company of the Bank of England to authorize and direct their Accountant General for the time being, to keep books wherein all assignments or transfers of the said Annuities and principal Sums or Stock shall be entered and registered in such manner as the said Governor and Company shall direct; which entry shall be signed by the parties making such assignments or transfers, or if such parties be absent by their respective Attorney or Attornies, thereunto lawfully authorized, in writing under his, her, or their hand and seal, or hands and seals, to be attested by two or more credible witnesses; and that the several persons to whom such transfers shall be made, shall respectively underwrite their acceptance thereof by themselves, or by their respective Attorney or Attornies thereunto lawfully authorized in manner aforesaid; and that no other method of assigning and transferring the said Annuities and principal Sums or Stock, or any part thereof, or any interest therein, shall be good or available in Law: provided always, that no Stamp Duties whatsoever shall be charged on any of the said Transfers, nor on any receipt for any payment in respect of the said Annuities, or the said principal Sums or Stock, or the interest thereof; any Law or Statute to the contrary notwithstanding. 35 G. 3. c. 66. s. 2. 37 G. 3. c. 46. s. 2.

The third section recites, that for the prevention of Forgeries and Frauds in respect to the Receipts, Payments, and Transfers made or given in pursuance of this Act, it is necessary that the like provisions should be enacted as by the Laws now in being are already in force respecting Stocks, Annuities, and other Public Funds transferrable at the Bank of England aforesaid; be it therefore further enacted by the authority aforesaid, that from and after the passing of this Act, if any person or persons shall forge or counterfeit, or cause or procure to be forged or counterfeited, or wilfully act or assist in the forging or counterfeiting any Receipt or Receipts for the whole or any part or parts of the said subscriptions or contributions towards the said two Loans or either of them, or any Debenture or Debentures purporting to entitle any person or persons, or Body Politic or Corporate whatsoever, to any principal Sum, or the Interest thereon, or any Annuity, or part of any principal Sum, Interest or Annuity, payable under the said two Acts of Parliament of Ireland, or either of them, either with or without the name or names of any person or persons, or Body Politic or Corporate,

being inserted therein as the Subscriber or Subscribers, or Contributor or Contributors, or Payer or Payers, towards the said two Loans, or any part or parts thereof, or shall alter any Number, Figure, or Word therein, or utter or publish as true any such false, forged, counterfeited, or altered Receipt or Receipts, Debenture or Debentures, with intention to defraud the Governor and Company of the Bank of England, or any Body Politic or Corporate, or any person or persons whatsoever (1), every such person or persons so forging or counterfeiting, or causing or procuring to be forged or counterfeited, or wilfully acting or assisting in the forging or counterfeiting, or altering, uttering, or publishing as aforesaid, shall be deemed guilty of Felony, and shall suffer Death as a Felon or Felons, without Benefit of Clergy. 35 G. 3. c. 66. s. 3. 37 G. 3. c. 46. s. 3.

If any person or persons shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting any Letter of Attorney or other Authority or Instrument, to transfer, assign, sell, or convey any part or share of or in the principal Sums or Stock, or the Annuities by this Act made or declared transferrable at the Bank of England, or to receive any Annuity or Annuities, or Interest, or Dividend or Dividends, in pursuance of this Act, payable at the Bank of England, or any part thereof, or shall forge or counterfeit, or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting, any the name or names of any the Proprietor or Proprietors of any such part or share of or in such principal Sums or Stock, or Annuities, Interest, Dividend or Dividends as aforesaid, in or to any such pretended Letter of Attorney, Instrument or Authority, or shall knowingly and fraudulently demand or endeavour to have any such part or share of or in such principal Sums or Stock, or Annuities, Interest, Dividend or Dividends, or any part thereof, transferred, assigned, sold, or conveyed, or such Annuity or Annuities, Interest, Dividend or Dividends, or any part thereof, to be received by virtue of any such counterfeit or forged Letter of Attorney, Authority, or Instrument, or shall falsely and deceitfully personate any true and real Proprietor or Proprietors of the said shares of or in

Persons forging letters of attorney to transfer stock, &c. or personating proprietors, to suffer Death.

(1) "such Receipt or Receipts, Debenture or Debentures, concerning some Part or Share of or in the principal Sums or Stocks, or the Annuities by this Act made or declared transferrable at the Bank of England." These words are added in the Statute 37 G. 3. c. 46.

the said principal Sums or Stock, Annuities, Interest, Dividend or Dividends, or any of them, or any part thereof, and thereby transferring or endeavouring to transfer, any part or share of or in the said principal Sums or Stock, or Annuities, or receiving, or endeavouring to receive the Money of such true and lawful Proprietor or Proprietors, as if such offender or offenders were the true and lawful Owner or Owners thereof; then and in every or any such case, such offender or offenders shall be deemed guilty of Felony, and shall suffer Death as a Felon or Felons, without Benefit of Clergy. 35 G. 3. c. 66. s. 4. 37 G. 3. c. 46. s. 4. (1)

Persons forging dividend warrants, &c. to suffer Death.

If any person or persons shall forge, counterfeit, or alter any Dividend Warrant, or Warrant for payment of any Annuity, Interest, or Money payable in pursuance of this Act at the Bank of England, or any indorsement thereon, or shall offer or dispose of, or put away any such forged, counterfeited, or altered Dividend Warrant, or Warrant for payment of any Annuity, Interest, or Money payable as aforesaid, or the Indorsement thereon, or demand the Money therein contained or pretended to be due thereon, or any part thereof, of the said Governor and Company of the Bank of England, or any their Officers or Servants, knowing such Dividend Warrant, or Warrant for payment of any Annuity, Interest, or Money, payable as aforesaid, or the Indorsement thereon, to be forged, counterfeited, or altered, with intent to defraud the said Governor and Company of the Bank of England, or their Successors, or any other Body Politic or Corporate, or any person or persons whatsoever, every person or persons so offending shall be deemed guilty of Felony, and shall suffer death as a Felon or Felons, without benefit of Clergy. 35 G. 3. c. 66. s. 5. 37 G. 3. c. 46. s. 5.

Officers of the bank embezzling notes, &c. to suffer Death.

If any Officer or Servant of the said Governor and Company of the Bank of England, being entrusted with any Note, Bill, Dividend Warrant, or Warrant for Payment of any Annuity or Interest, or Money, or any Security Money, or other Effects, of or belonging to the said Governor and Company, or having any Note, Bill, Dividend Warrant, or Warrant for Payment of any Annuity or Interest, or Money, or any Security Money, or other Effects, of any other person or persons, Body Politic or Corporate, lodged or deposited with the said Governor and Company, or with him as an Officer or Servant of the said Go-

(1) This clause is in substance precisely similar to the first section of the Statute 8 G. 1. c. 22. ante, pages 255, 256.

vernor and Company, in pursuance of this Act, or of the due execution thereof, shall secrete, embezzle, or run away with any such Note, Bill, Dividend or other Warrant, Security Money, or other Effects as aforesaid, or any part thereof; every such Officer or Servant, so offending, shall be deemed guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy. 35 G. 3. c. 66. s. 6. 37 G. 3. c. 46. s. 6. (1)

If any person or persons shall wilfully make, or assist in making, any Transfer of any Interest, Part, or Share of or in any principal Sums or Stock, Annuity or Annuities, by this Act made or declared transferrable at the Bank of England, in any of the Books of the said Governor and Company of the Bank of England in which Transfers of principal Sums, Stock, or Annuities as aforesaid are or in pursuance of this Act shall be made, in the Name or Names of any person or persons not being the Owner or Owners, or Proprietor or Proprietors, of such principal Sums or Stock, or Annuity or Annuities, transferrable as aforesaid, with intent to defraud the said Governor and Company of the Bank of England, or any other Body Politic or Corporate, or any person or persons whatsoever, such person or persons so making or assisting in making such Transfer as aforesaid shall be deemed guilty of Felony, and shall suffer Death as a Felon or Felons, without Benefit of Clergy. 35 G. 3. c. 66. s. 7. 37 G. 3. c. 46. s. 7.

Persons making transfers in any but names of proprietors, to suffer Death.

If any person or persons whatsoever shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or shall wilfully act or assist in the falsely making, forging or counterfeiting, of any Transfer of any Interest, Part, or Share of or in any Principal Sums or Stock, or Annuity or Annuities, by this Act made or declared transferrable at the Bank of England, or shall utter or publish as true any such false, forged, or counterfeited Transfer as aforesaid, knowing the same to be false, forged, or counterfeited, with intent to defraud the said Governor and Company of the Bank of England, or any other Body Politic or Corporate, or any person or persons whatsoever, all and every person or persons whatsoever so offending shall be deemed guilty of Felony, and shall suffer Death as a Felon or Felons, without Benefit of Clergy. 35 G. 3. c. 66. s. 8. 37 G. 3. c. 46. s. 8.

Persons forging transfers, &c. to suffer Death.

If any person or persons whatsoever shall wilfully make, or assist in making, any false Entry, or shall wilfully alter, or assist

Persons making false entry in the books of the

(1) See title LARCENY.

Bank, to suffer
Death.

in altering, any Word or Figure in any Entry in the Books of Account kept, or in pursuance of this Act to be kept by the said Governor and Company of the Bank of England, wherein the several Accounts of the Owners or Proprietors of principal Sums or Stock, or Annuities, by this Act made or declared transferrable at the Bank of England, are or in pursuance of this Act shall be entered and kept, or shall in any manner wilfully falsify the Account or Accounts of any such Owner or Proprietor in the Books of the said Governor and Company, wherein such Accounts are or in pursuance of this Act shall be entered and kept, with intent to defraud the said Governor and Company of the Bank of England, or any other Body Politic or Corporate, or any person or persons whatsoever, every such person or persons so offending shall be deemed guilty of Felony, and shall suffer Death as a Felon or Felons, without Benefit of Clergy. 35 G. 3. c. 66. s. 9. 37 G. 3. c. 46. s. 9.

Clerks, &c. of
the Bank making
out false dividend
warrants, to be
Transported.

The tenth sections respectively of each of the above Statutes recite, that “in order to cover and conceal Forgeries and Frauds in Transfers, Dividend Warrants have been sometimes made out for different Sums than the Sums really due;” and then enact, that if any Clerk, Officer, or Servant of, or other person or persons employed or entrusted by the said Governor and Company, shall from and after the passing of this Act, knowingly or wilfully make out or deliver, or cause or procure to be made out or delivered, or wilfully act or assist in the making out or delivering of any Dividend Warrant, or Warrant for Payment of any Annuity or Interest, or Money, payable in pursuance of this Act at the Bank of England, for a greater or less amount than the person or persons on whose behalf, or pretended behalf, such Dividend Warrant, or Warrant for Payment of any Annuity or Interest, or Money payable as aforesaid, shall be made out, is or are entitled to, with intent to defraud the said Governor and Company of the Bank of England, or any other Body Politic or Corporate, or any person or persons whatsoever; all and every such person or persons so offending, being in due Form of Law convicted of any such Offence or Offences as aforesaid, shall be transported for Seven Years. 35 G. 3. c. 66. 37 G. 3. c. 46.

The seventh, eighth, ninth, and tenth sections of the above Acts are in substance precisely the same as the first, second, third, and fourth sections of the Statute 38 G. 3. c. 30., before noticed; but as, on account of their subject matter, there is some small variance in the wording, it has been thought right to insert all the sections of the several Acts at length.

III. *Forging the Notes and other Securities of the Bank of England, and other Public Companies.*

(And see Title BANK OF ENGLAND.)

i. *Bank Notes and other Securities of the Bank of England.*

(And see Division II. of this Title.)

Be it enacted, that the forging or counterfeiting the Common Seal of the Corporation of the Governor and Company of the Bank of England, or of any sealed Bank Bill made or given out in the name of the said Governor and Company for the payment of any sum of money, or of any Bank Note of any sort whatsoever, signed for the said Governor and Company, or the altering or rasing any Indorsement on any Bank Bill or Note of any sort, shall be and is hereby declared and adjudged to be Felony, without benefit of Clergy. 8, 9 W. 3. c. 20. s. 36.

Offenders forging the common seal of the Bank of England, ousted of clergy.

If any person or persons shall alter, forge, or counterfeit any Bank Bill or Bank Note, made or given out for the payment of any sum of money by or for the said Governor and Company [of the Bank of England], or any Bank Note of any sort whatsoever, or shall erase or alter any such Bill or Note, or any Endorsement thereupon, or shall tender in payment, utter, vend, exchange, or barter any such altered, forged, or counterfeited Bill or Note, or any erased or altered Bill or Note, or the Endorsement thereupon, or demand to have the same exchanged for ready money by the said Governor and Company or their Successors, or any other person or persons (knowing such Bill or Note, or the Endorsement thereupon so tendered or demanded to be exchanged, vended, or bartered, to be altered, forged, counterfeited, or erased), and with intention to defraud the said Governor and Company or their Successors, or any other person or persons, Body Politick or Corporate, then every such person or persons so offending (being thereof lawfully convicted) shall be and is hereby declared and adjudged a Felon, and shall suffer as in cases of felony. 11 G. 1. c. 9. s. 6.

Forging, erasing, vending, &c. Bank of England notes or bills, or the indorsement thereon, Felony.

If any person or persons shall forge, counterfeit, or alter any Bank Note, Bank Bill of Exchange, Dividend Warrant, or any Bond or Obligation under the Common Seal of the said Company (1), or any Indorsement thereon, or shall offer or dispose of, or put away any such forged, counterfeit, or altered Note, Bill, Dividend Warrant, Bond, or Obligation, or the Indorse-

Persons forging or altering any bank note, &c. dividend warrant, bond, &c. under the common seal of the Bank, or knowingly uttering the

(1) Of the Bank of England.

same guilty of
Felony, without
clergy.

ment thereon, or demand the money therein contained or pretended to be due thereon, or any part thereof, of the said Company, or any their Officers or servants, knowing such Note, Bill, Dividend Warrant, Bond, or Obligation, or the Indorsement thereon, to be forged, counterfeited, or altered, with intent to defraud the said Company or their successors, or any other person or persons whatsoever, every person or persons so offending, and being thereof convicted in due form of law, shall be deemed guilty of Felony, and shall suffer Death as a Felon, without benefit of Clergy. 15 G. 2. c. 13. s. 11.

Persons forging,
&c. any bank
note, bank bill
of exchange, divi-
dend warrant,
bond, or indorse-
ment thereon, or
offering or put-
ting away, &c.
the same, ousted
of clergy.

The Statute 45 G. 3. c. 89. "to alter and extend the provisions of the Laws now in force for the punishment of the Forgery of Bank Notes, Bills of Exchange, and other Securities, to every part of Great Britain", enacts, that if any person or persons shall, from and after the passing of this Act, forge, counterfeit, or alter any Bank Note, Bank Bill of Exchange, Dividend Warrant, or any Bond or Obligation under the Common Seal of the Governor and Company of the Bank of England, or any Indorsement thereon, or shall offer or dispose of, or put away any such forged, counterfeit, or altered Note, Bill, Dividend Warrant, Bond, or Obligation, or the Indorsement thereon, or demand the Money therein contained or pretended to be due thereon, or any part thereof, of the said Company, or any their Officers or servants, knowing such Note, Bill, Dividend Warrant, Bond, or Obligation, or the Indorsement thereon, to be forged, counterfeited, or altered, with intent to defraud the said Governor and Company, or their successors, or any other person or persons, Body or Bodies Politic or Corporate whatsoever, every person or persons so offending, and being thereof convicted in due form of Law, shall be deemed guilty of Felony, and shall suffer Death as a Felon without benefit of Clergy. s. 2.

By s. 8. all and every the clauses and provisions in this Act contained shall extend, and be deemed and construed to extend, by all Courts, Judges, and Magistrates whatsoever, to every part of Great Britain; any thing herein-before contained, or any Law, Statute or Usage to the contrary notwithstanding.

Persons forging,
&c. or procuring
to be forged, &c.
or willingly acting
in forging, &c.
the name or hand
of the Account-
ant General, &c.
of Chancery,

By the Statute 12 G. 1. c. 32. s. 9. if any person or persons shall, after 1st May 1726, forge or counterfeit, or procure to be forged or counterfeited, or willingly act or assist in the forging or counterfeiting, the Name or Hand of the said Accountant General, (i. e. of the said Court of Chancery) the said Register, the said Clerk of the Report Office, or any of

the Cashiers of the said Governor and Company of the Bank of England, to any Certificate, Report, Entry, Indorsement, Declaration of Trust, Note, Direction, Authority, Instrument, or Writing whatsoever, for or in order to the receiving or obtaining any the Money or Effects of any of the Suitors of the said Court of Chancery, or shall forge or counterfeit, or procure to be forged or counterfeited, or wilfully act or assist in forging or counterfeiting, any Certificate, Report, Entry, Indorsement, Declaration of Trust, Note, Direction, Authority, Instrument, or Writing in form of a Certificate, Report, Entry, Indorsement, Declaration of Trust, Note, Direction, Authority, Instrument, or Writing made by such Accountant General, Register, Clerk of the Report Office, or any of the Cashiers of the said Governor and Company of the Bank of England, or any Bond or Obligation under the Common Seal of the United Company of Merchants of England trading to the East Indies, or any Indorsement or Assignment thereon, or on any Bond or Obligation under the Common Seal of the Governor and Company of Merchants of Great Britain trading to the South Seas, and other parts of America, and for encouraging the Fishery; or shall utter or publish any such, knowing the same to be forged or counterfeited, with intention to defraud any person whatsoever; then every such person and persons so offending, (being thereof lawfully convicted) shall be and is hereby declared and adjudged to be guilty of Felony, and shall suffer Death as in case of Felony, without benefit of Clergy.

or of Cashiers of Bank of England, to any certificate, &c. in order to receive the effects of suitors;

or any East India, or South Sea bond, &c.;

or knowingly publishing the same;

shall be guilty of felony, without benefit of clergy.

III. ii. *Securities of the South Sea Company.*

If any person or persons shall forge or counterfeit the Common Seal of the South Sea Company, or shall forge, counterfeit, or alter any Bond or Obligation under the Common Seal of the said Company, or shall offer to dispose of or pay away any such forged, counterfeited, or altered Bond (knowing the same to be such), or shall demand the Money therein contained or pretended to be due thereon, or any part thereof, of the said Company or any of their Officers (knowing such Bond or Obligation to be forged, counterfeited, or altered), with intent to defraud the said Company, or their Successors, or any other person or persons whatsoever, every such person and persons so offending (and being convicted thereof in due form of Law), shall be guilty of Felony, and shall suffer Death as a Felon, without benefit of Clergy. 9 Anne, c. 21. s. 57. 6 G. 1. c. 4. s. 56.

Persons forging, &c. the common seal, or any bond, &c. under the seal of the South Sea Company, or demanding the money on such bond, shall be guilty of felony, without benefit of clergy.

Forging receipts or warrants of officers of the South Sea Company, shall be felony, without clergy;

The Statute 6 G. 1. c. 11. s. 50. reciting that "the Corporation of the Governor and Company of Merchants of Great Britain trading to the South Seas and other parts of America, and for encouraging the Fishery, may issue out Receipts, under the hand or hands of one or more of their Officers, from time to time, upon or for Subscriptions, to be by the said Company taken for increasing their capital Stock, pursuant to 6 G. 1. c. 4.; and may also issue out Warrants, under the hand or hands of one or more of their Officers, for the Dividend from time to time to be made to the Proprietors of the Stock in the said Company;" enacts, that if any person or persons shall forge, counterfeit, or alter any such Receipt or Receipts, Warrant or Warrants, or any Indorsement or Writing, Indorsements or Writings thereupon or therein, or shall tender any such forged, counterfeited, or altered Receipt or Receipts, Warrant or Warrants, or any such Receipt or Receipts, Warrant or Warrants with such counterfeit Indorsement or Writing thereon or therein, knowing the same to be so forged, counterfeited, or altered, to the said Company or any of their Officers, or shall offer to alienate or dispose of the same, knowing the same to be forged, counterfeited, or altered, and with intent to defraud the said Company, or any other person or persons, Bodies Politick or Corporate; then and in such case every such person or persons so offending, being thereof lawfully convicted, shall be adjudged a Felon, and shall suffer Death as in cases of Felony, without benefit of Clergy.

or any indorsement or assignment thereof, or uttering the same.

The Statute 12 G. 1. c. 32. s. 9. enacts, that if any person or persons shall, after 1st May 1726, forge or counterfeit, or procure to be forged or counterfeited, or wilfully act or assist in forging or counterfeiting, any Bond or Obligation under the Common Seal of the United Company of Merchants of England trading to the East Indies, or any Indorsement or Assignment thereon, or on any Bond or Obligation under the Common Seal of the Governor and Company of Merchants of Great Britain trading to the South Seas and other parts of America, and for encouraging the Fishery; or shall utter or publish any such, knowing the same to be forged or counterfeited, with intention to defraud any person whatsoever; then every such person and persons so offending (being thereof lawfully convicted), shall be and is hereby declared and adjudged to be guilty of Felony, and shall suffer Death as in case of Felony, without benefit of Clergy.

III. iii. *Securities of the London, Royal Exchange, and Globe Insurance Companies.*

By the Statute 6 G. 1. c. 18., entitled An Act for securing certain powers and privileges intended to be granted by his Majesty by two Charters for Assurance of Ships and Merchandizes at Sea, and for lending money upon Bottomry, &c. it is by s. 1. enacted, that it shall and may be lawful to and for his Majesty, by one Charter or Indenture under the Great Seal of Great Britain, to declare and grant that such and so many persons who shall be named therein, and all and every such other person and persons as hereafter from time to time shall be duly admitted as Members into their Corporation, shall be one distinct and separate Body Politic and Corporate for the Assurance of Ships, Goods, and Merchandizes at Sea or going to Sea, and for lending Money upon Bottomry, by such name as his Majesty shall think most proper; and then (by s. 13.) further enacts, that if any person or persons shall forge or counterfeit the Common Seal of either of the said Corporations to be erected and established pursuant to this Act, or shall forge, counterfeit, or alter any Policy, Bill, Bond, or Obligation under the Common Seal of either of the same Corporations, or shall offer to dispose of or put away any such forged, counterfeit, or altered Policy, Bill, Bond, or Obligation, knowing the same to be such, or shall demand the Money therein contained or pretended to be due thereon, or any part thereof, of or from such of the same Corporations as shall be mentioned or referred to therein, or any of their Officers, knowing such Policy, Bill, Bond, or Obligation to be forged, counterfeited, or altered, with intent to defraud the same Corporation or their Successors, or any other person or persons whatsoever, every such person or persons so offending, and being convicted thereof in due form of law, shall be guilty of Felony, and suffer as in cases of Felony, without benefit of Clergy.

Persons forging, &c. the common seal of either of the Corporations for assuring ships, goods, &c. at or going to Sea, and lending money upon bottomry, or any bill, bond, policy, or obligation of such Corporations, or knowingly uttering the same, &c. shall be guilty of felony, without benefit of clergy.

A similar protection is extended to the Globe Insurance Company by Statute 39 G. 3. c. lxxxiii. s. 22.

Globe Insurance Company.

III. iv. *Securities of the East India Company.*

By Statute 12 G. 1. c. 32. s. 9. it is enacted, that if any person or persons shall forge or counterfeit, or procure to be forged or counterfeited, or wilfully act or assist in forging or counterfeiting, any Bond or Obligation under the Common Seal of the United Company of Merchants of England trading to the East Indies, or any Indorsement or Assignment thereon, or shall utter or

Persons forging any bond, &c. under the common seal of the East India Company, or uttering the same, ousted of clergy.

publish any such, knowing the same to be forged or counterfeited, with intention to defraud any person whatsoever, then every such person and persons so offending (being thereof lawfully convicted) shall be and is hereby declared and adjudged to be guilty of Felony, and shall suffer Death as in case of felony, without benefit of Clergy.

III. v. The Seal or any Security of the British Plate Glass Manufactory.

Persons forging the seal, or any deed, &c. under the seal of the British Plate Glass Manufactory, guilty of felony.

By the Statute 13 G. 3. c. 38. (for incorporating the British Plate Glass Manufactory) it is enacted by s. 28. that if any person or persons shall forge or counterfeit the Seal of the Corporation, or any Deed or Writing under the Common Seal, or shall demand any money in pursuance of any such forged or counterfeited Deed or Writing, either from the Corporation, or any members or servants thereof, knowing such Writing to be forged, with intent to defraud the same Corporation, or their successors, or any other person or persons whomsoever, every person so offending, and being convicted thereof in due form of Law, shall be judged guilty of Felony, and shall be transported to one of his Majesty's Colonies or Plantations in America, for a term not exceeding seven years.

The above Act was, by Stat. 38 G. 3. c. xvii. (Local and Personal) revived and continued for 21 years from the 5th April 1798, and to the end of the then next Session.

III. vi. The Seal, or any Security of The English Linen Company.

Persons forging the common seal, or any bond, &c. of the English Linen Company, shall suffer death.

If any person or persons shall forge or counterfeit the Common Seal of the said Corporation (1) to be established in pursuance of this Act, or shall forge, counterfeit, or alter any Deed, Bill, Bond, or Obligation, under the Common Seal of the said Company, or shall offer to dispose of or pay away any such forged, counterfeited, or altered Bill, Bond, or Obligation, knowing the same to be such, or shall demand any money therein mentioned or pretended to be due thereon, or on any part thereof, of and from the said Corporation, or any members, officers, or servants thereof, knowing such Bill, Bond, or Obligation to be forged, counterfeited, or altered, with intent to defraud the same Corporation, or their successors, or

(1) To be created by the name of "The English Linen Company."

any other person or persons whatsoever, every person so offending, and being convicted thereof in due form of Law, shall be judged guilty of Felony, and shall suffer as in cases of Felony without benefit of Clergy. 4 G. 3. c. 37. s. 15.

IV. *Forging the Hand-writing, Draft, or other Instrument of Public Officers.*

The Statute 46 G. 3. c. 45. "For the better Regulation of the Office of the Treasurer of Ordnance", enacts (s. 9.) that if any person or persons shall knowingly and wilfully forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly and wilfully act or assist in forging or counterfeiting, the Name or Hand (1) of the [Treasurer of the Ordnance for the time being or his Deputy (2)] [or the person or persons duly authorized as aforesaid (3)] to any (4) Draft, Instrument, or Writing whatsoever, for or in order to the receiving or obtaining any of the Money in the hands or custody of the Governor and Company of the Bank of England, on account of the [Treasurer of the Ordnance (5)]

Forging the draft, &c. of certain public officers, declared to be felony, without benefit of clergy.

(1) The Statutes 46 G. 3. c. 75. s. 8. c. 76. s. 9. c. 83. s. 9. c. 142. s. 14. and c. 150. s. 10. add here the word "writing."

(2) "Receiver General of the Excise for the time being, or of the Comptroller of the Cash of the Excise." 46 G. 3. c. 75. s. 8.

"Receiver General of the Stamp Duties for the time being, or of his Clerk, or of either of the Commissioners of Stamps." 46 G. 3. c. 76. s. 9.

"Receiver General of the Post Office for the time being, or his Clerk." 46 G. 3. c. 83. s. 9.

"Surveyor General of the Woods and Forests for the time being, or his Deputy." 46 G. 3. c. 142. s. 14.

"Receiver General of the Customs for the time being, or of the Supervisor of the Receiver General's Receipt and Payments." 46 G. 3. c. 150. s. 10.

"Agent General for the time being, or his Deputy." 54 G. 3. c. 151. s. 16.

(3) The Statutes 46 G. 3. c. 76. s. 9. c. 83. s. 9. and c. 142. s. 14. omit these words.

(4) The Statute 54 G. 3. c. 151. s. 16. adds here the words "Bill of Exchange, Acceptance."

(5) "Receiver General of the Excise." 46 G. 3. c. 75. s. 8.

"Receiver General of the Stamp Duties." 46 G. 3. c. 76. s. 9.

"Receiver General of the Post Office." 46 G. 3. c. 83. s. 9.

"Surveyor General of the Woods and Forests." 46 G. 3. c. 142. s. 14.

"Receiver General of the Customs." 46 G. 3. c. 150. s. 10.

[or (1)] shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly and wilfully act or assist in the forging or counterfeiting any (2) Draft, Instrument, or Writing in form of a Draft (3), made by such [Treasurer of the Ordnance or his Deputy (4)] [or the person or persons authorized as aforesaid (5)] or shall utter or publish any such, knowing the same to be forged or counterfeited, with [an (6)] intention to defraud any person whomsoever (7), every such person or persons so offending, being thereof lawfully convicted, shall be and is and are hereby declared and adjudged to be guilty of Felony, and shall suffer Death as in cases of Felony, without benefit of Clergy.

The Statutes 46 G. 3. c. 75. "for the better Regulation of the Office of Receiver General of the Duties of Excise in England;" 46 G. 3. c. 76. for "the better Regulation of the Office of Receiver General of the Stamp Duties in England;" 46 G. 3. c. 83. "for regulating the Office of Receiver General of the Post Office;" 46 G. 3. c. 142. "for the better Regulation of the Office of Surveyor General of Woods and Forests;" 46 G. 3. c. 150. "for the better Regulation of the Office of Receiver General of the Duties of Customs in Great Britain;" and 54 G. 3. c. 151. "for the better Regulation of the Office of Agent General for Volunteers and Local Militia," contain clauses similar to the above, with the variations and alterations as pointed out in the notes to the above clause of 46 G. 3. c. 45.

Persons forging
the hand, &c. of
the Receiver of

The Statute 32 G. 2. c. 14. directs the Receiver of Prefines at the Alienation Office to receive the Post Fine at the same

(1) The Statute 54 G. 3. c. 151. s. 16. inserts here the word "and" instead of "or."

(2) The Statute 54 G. 3. c. 151. s. 16. adds here the words "Bill of Exchange, Acceptance."

(3) This word is in this place spelt "Draught" in the Statute 46 G. 3. c. 75. s. 8.

(4) "Receiver General." 46 G. 3. c. 75. s. 8. 46 G. 3. c. 150. s. 10.

"Receiver General or his Clerk." 46 G. 3. c. 76. s. 9.

"Receiver General or his Deputy." 46 G. 3. c. 83. s. 9.

"Surveyor General or his Deputy." 46 G. 3. c. 142. s. 14.

"Agent General or his Deputy." 54 G. 3. c. 151. s. 16.

(5) The Statutes 46 G. 3. c. 76. s. 8. and c. 83. s. 9. omit these words.

(6) The Statute 46 G. 3. c. 76. s. 8. omits this word.

(7) The Statute 46 G. 3. c. 83. s. 9. adds here the words "or any Corporation."

time on every Writ of Covenant sued out for the passing of Fines in C. B., and to indorse the Receipt of the same thereon with his name and the mark of office; and then by s. 9. enacts, that if any person or persons, from and after the first day of Trinity Term 1759, shall make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, the Mark or Hand of such Receiver as aforesaid, whereby such Receiver or any other person or persons shall or may be defrauded, or suffer any loss thereby, every person or persons convicted of such offence shall be deemed guilty of Felony, and shall suffer Death as a Felon, without benefit of Clergy.

Prefines, shall be guilty of felony, without clergy.

The Statute 52 G. 3. c. 143. (1) declares and enacts (by s. 5.), that if any person shall, after the passing of this Act, make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, the Mark or Hand of the Receiver of the Prefines at the Alienation Office, upon any Writ of Covenant, whereby such Receiver or any other person shall or may be defrauded, or suffer any loss thereby, every person so offending, and being thereof convicted, shall be adjudged guilty of Felony, and shall suffer Death as a Felon, without benefit of Clergy.

The Statute 53 G. 3. c. 151. for regulating the Office of Registrar of the High Court of Admiralty and High Court of Appeals for Prizes, enacts, (s. 12.) that if any person or persons shall, from and after three months after the commencement of this Act, forge or counterfeit, or procure to be forged or counterfeited, or willingly act or assist in the forging or counterfeiting, the name or hand of the said Registrar, for the time being, of the High Court of Admiralty, or High Court of Appeals for Prizes, or his Deputy, or any of the Cashiers of the said Governor and Company of the Bank of England, to any Certificate, Entry, Indorsement, Declaration of Trust, Note, Direction, Authority, Instrument, or Writing whatsoever, for or in order to the receiving or obtaining any of the money or effects of any of the Suitors of the said Courts, or either of them; or shall forge or counterfeit, or procure to be forged or counterfeited, or willingly act or assist in forging or counterfeiting, any Certificate, Entry, Indorsement, Declaration of Trust, Note, Direction, Authority, Instrument, or Writing, made by such Registrar or his Deputy, or any of the Cashiers of the said Governor and Company of the Bank of England; or shall utter or publish

Forging, &c. the name of the Registrar, &c. or his Deputy, of the High Court of Admiralty, or High Court of Appeal, to any document;

or any document made by either of them;

(1) This Statute does not in any way notice the previous act of 32 G. 2. c. 14.

or knowingly
uttering the
same ;

shall be felony.

any such, knowing the same to be forged or counterfeited, with intent to defraud any person whatsoever, then every such person and persons so offending (being thereof lawfully convicted), shall be and is hereby declared and adjudged to be guilty of Felony.

V. Forgeries relating to the Stamp Duties.

§ 1.

Persons forging
any seal, stamp,
or mark used to
denote the duties
on stamped vel-
lum, parchment,
or paper, de-
clared guilty of
felony, without
clergy.

If any person shall counterfeit or forge, or procure to be counterfeited or forged, any Seal, Stamp, or Mark to resemble any [Seal (1)], Stamp, or Mark directed to be allowed or used, or provided, made, or used in pursuance of this or any former Act or Acts of Parliament relating to the Duties under the management of the said Commissioners for managing the Duties on Stamped Vellum, Parchment, and Paper, for the purpose of denoting the said Duties or any of them, or shall counterfeit or resemble the Impression of the same, with intent to defraud his Majesty, his Heirs or Successors, of any of the said Duties; or shall utter, vend, or sell any Vellum, Parchment, or Paper, [or other matter or thing (2)], with such counterfeit Mark or Stamp thereupon, knowing the same to be counterfeit; or shall privately or fraudulently use any Seal, Stamp, or Mark directed or allowed to be used by this or any former Act or Acts of Parliament, with intent to defraud his Majesty, his Heirs or Successors, of any of the said Duties; every person so offending, and being thereof lawfully convicted, shall be adjudged a Felon, and shall suffer Death as in cases of Felony, without Benefit of Clergy. 27 G. 3. c. 13. s. 46. (3)

Persons forging,
&c. any mark,
stamp, die, or
plate provided,
&c. in pursuance
of any act,
under the direc-
tion of the Com-
missioners of
Stamp Duties,
ousted of clergy.

The Statute 52 G. 3. c. 143. "for amending and reducing into one Act the provisions contained in any Laws now in force imposing the penalty of death for any act done in breach of or in resistance to any part of the Laws for collecting his Majesty's Revenue in Great Britain," by s. 7. *declares* and enacts, that if any person shall, after the passing of this Act, forge or counterfeit, or cause or procure to be forged or counterfeited, any Mark, Stamp, Die, or Plate which, in pursuance

(1) This word is not inserted in the acts 52 G. 3. c. 143. or 55 G. 3. c. 184., (which see post), although it occurs in some other clauses of acts creating the offence of forging Stamps, &c. a capital offence.

(2) These words are not to be found in any of the clauses of the several other Statutes punishing the Forgery of Stamps, &c.

(3) This Statute is inserted on account of the above-noticed variations from the last form to be found in Statute 55 G. 3. c. 184.

of any Act or Acts of Parliament, shall have been provided, made, or used by or under the direction of the Commissioners appointed to manage the Duties on stamped Vellum, Parchment, and Paper, or by or under the direction of any other person or persons legally authorized in that behalf, for expressing or denoting any Duty or Duties, or any part thereof, which shall be under the care and management of the said Commissioners, or for denoting or testifying the payment of any such Duty or Duties, or any part thereof, or for denoting any Device appointed by the said Commissioners for the Ace of Spades, to be used with any playing Cards; or shall forge or counterfeit, or cause or procure to be forged or counterfeited, the Impression or any resemblance of the Impression of any such Mark, Stamp, Die, or Plate as aforesaid, upon any Vellum, Parchment, Paper, Card, Ivory, Gold or Silver Plate, or other Material; or shall stamp or mark, or cause or procure to be stamped or marked, any Vellum, Parchment, Paper, Card, Ivory, Gold or Silver Plate, or other Material, with any such forged or counterfeited Mark, Stamp, Die, or Plate as aforesaid, with intent to defraud his Majesty, his Heirs or Successors, of any of the Duties, or any part of the Duties, under the care and management of the said Commissioners; or if any person shall utter or sell or expose to sale any Vellum, Parchment, Paper, Card, Ivory, Gold or Silver Plate, or other Material, having thereupon the Impression of any such forged or counterfeited Mark, Stamp, Die, or Plate, or any such forged or counterfeited Impression as aforesaid, knowing the same respectively to be forged or counterfeited; or if any person shall privately or secretly use any such Mark, Stamp, Die, or Plate which shall have been so provided, made, or used by or under such direction as aforesaid, with intent to defraud his Majesty, his Heirs or Successors, of any of the Duties or any part of the Duties under the care and management of the said Commissioners; every person so offending, and being thereof convicted, shall be adjudged guilty of Felony, and shall suffer death as a Felon, without benefit of Clergy.

The Statute 55 G. 3. c. 184. enacts (s. 7), that if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any Stamp or Die, or any part of any Stamp or Die, which shall have been provided, made, or used in pursuance of this Act, or in pursuance of any former Act or Acts relating to any Stamp Duty or Duties; or shall forge, counterfeit, or resemble, or cause or procure to be forged, counter-

Persons forging, &c. any stamp or die provided to denote the stamp duties;

feited, or resembled, the Impression, or any part of the Impres-
 sion of any such Stamp or Die as aforesaid, upon any Vellum,
 Parchment, or Paper; or shall stamp or mark, or cause or pro-
 cure to be stamped or marked, any Vellum, Parchment, or
 Paper, with any such forged or counterfeited Stamp or Die, or
 part of any Stamp or Die as aforesaid, with intent to defraud
 his Majesty, his Heirs or Successors, of any of the Duties hereby
 granted, or any part thereof; or if any person shall utter, or
 sell, or expose to sale, any Vellum, Parchment, or Paper,
 having thereupon the Impression of any such forged or coun-
 terfeited Stamp or Die, or part of any Stamp or Die, or any
 such forged, counterfeited, or resembled Impression, or part
 of Impression as aforesaid, knowing the same respectively to be
 forged, counterfeited, or resembled; or if any person shall pri-
 vately and secretly use any Stamp or Die which shall have been
 so provided, made, or used as aforesaid, with intent to defraud
 his Majesty, his Heirs or Successors, of any of the said Duties,
 or any part thereof; or if any person shall fraudulently cut,
 tear, or get off, or cause or procure to be cut, torn, or got off,
 the Impression of any Stamp or Die which shall have been
 provided, made, or used in pursuance of this or any former Act,
 for expressing or denoting any Duty or Duties under the care
 and management of the Commissioners of Stamps, or any part
 of such Duty or Duties, from any Vellum, Parchment, or Paper
 whatsoever, with intent to use the same for or upon any other
 Vellum, Parchment, or Paper, or any Instrument or Writing
 charged or chargeable with any of the Duties hereby granted;
 then and in every such case, every person so offending, and
 every person knowingly and wilfully aiding, abetting, or assist-
 ing any person or persons so committing any such Offence as
 aforesaid, and being thereof lawfully convicted, shall be ad-
 judged guilty of Felony, and shall suffer Death as a Felon, with-
 out Benefit of Clergy.

or stamping, &c.
any vellum, &c.
therewith;

or uttering, &c.
any vellum, &c.
with such forged
stamps thereon;

or secretly using
any stamp, &c;

or cutting off,
&c. any stamp
from any vellum,
&c. with intent
to use the same
on other vellum,
&c.;

declared guilty
of felony, with-
out clergy.

Other Statutes making it a Capital Offence to forge, &c.
 Stamps, &c. used for denoting Stamp Duties, are 30 G. 2. c. 19.
 s. 27. 26 G. 3. c. 49. s. 24. 35 G. 3. c. 30. s. 4. 35 G. 3.
 c. 49. s. 31. 35 G. 3. c. 63. s. 23. 36 G. 3. c. 52. s. 40.
 37 G. 3. c. 90. s. 5. 39 G. 3. c. 107. s. 25. 42 G. 3. c. 56.
 s. 20. 43 G. 3. c. 126. s. 11. c. 127. s. 8. 44 G. 3. c. 98.
 s. 9. 45 G. 3. c. 28. s. 8. and 48 G. 3. c. 149. s. 7.; but as
 the last enactment in the above Statute of 55 G. 3. c. 184. seems
 to supersede (for it does not in words repeal) them, it has not
 been deemed necessary to insert them at length in this Collection.

The Statute 55 G. 3. c. 185. "for repealing the Stamp Office Duties on Advertisements, Almanacks, Newspapers, and Licences for keeping Stage Coaches, now payable in Great Britain, and for granting new Duties in lieu thereof;" enacts (s. 6.), that if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any Plate, Stamp, or Die, or any part of any Plate, Stamp, or Die, which shall have been provided, made, or used, in pursuance of this or any former Act, for expressing and denoting any of the Duties granted by this or any former Act on Almanacks, Newspapers, and Licences to keep Stage Coaches; or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the Impression or any part of the Impression of any such Plate, Stamp, or Die, upon any Paper whatsoever; or shall stamp or mark, or cause or procure to be stamped or marked, any Paper whatsoever with any such forged or counterfeited Plate, Stamp, or Die as aforesaid, with intent to defraud his Majesty, his Heirs or Successors, of any of the Duties hereby granted on Almanacks, Newspapers, and Licences to keep Stage Coaches, or any part thereof; or if any person shall utter, or sell, or expose to sale, any Paper having thereupon the Impression of any such forged or counterfeited Plate, Stamp, or Die, or part of any Plate, Stamp, or Die, or any such forged, counterfeited, or resembled Impression, or part of Impression as aforesaid, knowing the same respectively to be forged, counterfeited, or resembled; or if any person shall privately and secretly use any Plate, Stamp, or Die which shall have been so provided, made, or used as aforesaid, with intent to defraud his Majesty, his Heirs or Successors; then every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting any person or persons in committing any such offence as aforesaid, and being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as a Felon, without benefit of Clergy.

§ 2.

Persons forging, &c. stamps, &c. used for denoting the duties on advertisements, &c. declared guilty of felony, without clergy.

The Statute 41 G. 3. U. K. c. 86. (1), for granting additional Stamp Duties on Cards and Dice, on Probates of Wills, on certain Indentures, Leases, Bonds, or other Deeds, and on Ale Licences; enacts (s. 16.), that if any person shall counterfeit or forge, or cause or procure to be counterfeited or forged, any Stamp directed or allowed to be used by this Act, or provided, made, or used for the purpose of denoting the Duties by this

§ 3.

Persons forging, &c. stamps on cards or dice, or wrappers, &c. of dice, ousted of clergy.

(1) The words of the Statute 55 G. 3. c. 184. (see § 1. of this Division) do not appear to extend to the instruments mentioned in this Act.

Act granted as aforesaid, or any of them, or shall counterfeit or resemble the Impression of the same, with an intent to defraud his Majesty, his Heirs or Successors, of any of the said Duties; or shall utter, vend, or sell any Vellum, Parchment, or Paper liable to any Stamp Duty by this Act imposed, with such counterfeit Mark or Stamp thereupon, knowing the same to be counterfeit, or shall privately use any Stamp directed or allowed to be used by this Act, with intent to defraud his Majesty of the said Duties, or shall counterfeit or forge, or cause to be counterfeited or forged, any Mark or Name provided by the said Commissioners under this Act, for the wrapping or inclosing any Dice, or making any part of, or being affixed to any such Wrapper; then every person so offending and being thereof lawfully convicted, shall be adjudged a Felon, and shall suffer Death as in cases of Felony, without benefit of Clergy.

§ 4.

Persons committing enumerated frauds on vellum, parchment, paper, playing cards, &c. liable to stamp duties, shall be guilty of felony.

The Statute 12 G. 3. c. 48. reciting, that “for the more effectual prevention of several frauds whereby his Majesty’s Duties granted by several Acts of Parliament in that behalf, on Stamped Vellum, Parchment, and Paper, have been very much diminished, the penalties thereon prescribed being found insufficient to deter Offenders;” enacts, that if any person or persons, at any time after 1st August 1772, shall write or engross, or cause to be written or engrossed, either the whole or any part of any Writ, Mandate, Bond, Affidavit, or other Writing, matter or thing whatsoever, in respect whereof any Duty is or shall be payable by any Act or Acts made or to be made in that behalf, on the whole or any part of any piece of Vellum, Parchment, or Paper, whereon there shall have been before written any other Writ, Bond, Mandate, Affidavit, or other matter or thing in respect whereof any Duty was or shall be payable as aforesaid, before such Vellum, Parchment, or Paper shall have been again marked or stamped according to the said Acts; or shall fraudulently erase or scrape out, or cause to be erased or scraped out, the name or names of any person or persons, or any sum, date, or other thing written in such Writ, Mandate, Affidavit, Bond, or other Writing, matter or thing as aforesaid; or fraudulently cut, tear, or get off any mark or stamp in respect whereof or whereby any Duties are or shall be payable, or denoted to be paid or payable as aforesaid, from any piece of Vellum, Parchment, Paper, Playing Cards, outside paper of any parcel or pack of Playing Cards, or any part thereof, with intent to use such stamp or mark for any other writing, matter or thing, in respect whereof any such Duty is or shall be payable,

er denoted to be paid or payable as aforesaid ; then, so often, and in every such case, every person so offending in any of the particulars before mentioned, and every person knowingly and wilfully aiding, abetting, or assisting any person or persons to commit any such offence or offences as aforesaid, shall be deemed and construed to be guilty of Felony, and being thereof convicted by due course of law, shall be transported to some of his Majesty's plantations beyond the Seas, for a term not exceeding Seven Years, according to the laws in force for the transportation of felons. And if any such person or persons, so convicted or transported, shall voluntarily escape or break prison, or return from transportation before the expiration of the time for which he, she, or they shall be so transported as aforesaid, such person or persons, being thereof lawfully convicted, shall suffer Death as a Felon, without benefit of Clergy, and shall be tried for such Felony in the County where he, she, or they shall be apprehended.

By s. 2. if any person or persons shall, after the said 1st August 1772, commit any of the offences aforesaid, and afterwards, being out of Prison, discover one or more persons who shall, since that time, have committed any of the Offences aforesaid, so as such person or persons discovered shall be convicted of such Offence or Offences, he, she, or they so discovering, shall have and be entitled to his Majesty's Pardon for all such Offences by him or her committed at any time or times before such discovery made.

Offenders out of prison convicting an accomplice shall be pardoned.

By the Statute 54 G. 3. c. 133., " for making Allowances for spoiled Stamps on Policies on Insurance in Great Britain," it is enacted, that if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, or willingly aid or assist in the forging or counterfeiting of the Name or Handwriting of any Underwriter, on any Policy of Insurance, to any Declaration of any Return of the Premium on such Policy, or any part thereof, or shall fraudulently alter, or cause or procure to be altered, or aid or assist in altering any such Declaration, after the same shall have been signed by any Underwriter, or shall utter or make use of any such Declaration, knowing the same to have been fraudulently altered, or the Name or Handwriting of any Underwriter to have been forged or counterfeited thereon, for the purpose of obtaining any such Allowance as aforesaid; and with intent to defraud his Majesty, his Heirs or Successors ; every person so offending shall, for the first Of-

§ 5.

Persons forging, &c. names of underwriters to the declaration on spoiled Policies of Insurance, or uttering same, first offence £500, second offence felony.

fence, forfeit the Sum of Five Hundred Pounds, to be paid to his Majesty, his Heirs or Successors, and to be recovered in the same manner as other Penalties imposed by any of the Laws now in force relating to Stamp Duties; and for the second and every other Offence, shall be adjudged guilty of Felony, and shall be transported for Seven Years to parts beyond the Seas.

VI. i. *Forging, &c. Memorials (or Certificates thereof) of Deeds and Wills, and of Bargains and Sales, and of other Conveyances, &c. in Middlesex and Yorkshire.*

Penalty on persons forging, &c. any certificate or memorial of the registering of deeds, &c. in W. R. of York.

By 2, 3 Ann. c. 4. entitled "An act for the publick registering of all Deeds, Conveyances, and Wills, of any Honors, Manors, Lands, Tenements or Hereditaments, within the West Riding of the County of York, after the 29th September 1704," it is directed that a Memorial of all such shall be registered in a certain manner at Wakefield, and that the Registrar shall indorse a Certificate of such registry on every such Deed, &c.; and by s. 19. it is enacted, that if any person or persons shall at any time forge or counterfeit any such Memorial or Certificate, and be thereof lawfully convicted, such person or persons shall incur and be liable to such pains and penalties as by 5 Eliz. c. 14. are imposed upon persons for forging or publishing of false Deeds, Charters, or Writings sealed, Court Rolls, or Wills, whereby the Freehold or Inheritance of any person or persons of, in, or to any Lands, Tenements or Hereditaments, shall or may be molested, troubled, or charged.

Penalty on persons forging, &c. any entry of the acknowledgment of any bargain and sale, or any memorial or certificate, &c. in W. R. of York;

The Statute 5 Ann. c. 18. directs that all Bargains and Sales of any Manors, Lands, Tenements, and Hereditaments, within the West Riding of the County of York, shall be registered at Wakefield and indorsed by the Registrar; that the inrollment of every such Deed shall be deemed a Memorial pursuant to 2, 3 Ann. c. 4.; and by s. 4. no Judgment, Statute, or Recognizance shall bind any Manors, Lands, &c. but only from the time a Memorial thereof shall be registered in the office; then s. 8. subjects to the same punishment as the Statute 2, 3 Ann. c. 4. any person or persons who shall forge or counterfeit any Entry of the Acknowledgment of any Bargainer in any such Bargain and Sale as aforesaid, or any such Memorial, Certificate, or Indorsement, as are therein mentioned or directed, being thereof lawfully convicted.

extended to the North Riding.

The Statute 8 G. 2. c. 6. s. 31. extends the provisions of both Statutes to the North Riding of the same County.

The Statute 7 Ann. c. 20. directs the like Registry of Deeds, Conveyances, Wills, and other Incumbrances, affecting Honors, Manors, Lands, Tenements, or Hereditaments, in Middlesex, as in 2, 3 Ann. c. 4., and directs Certificates to be indorsed on such Memorials, and on the Deeds, &c. registered; and then by s. 15. enacts, that if any person or persons shall at any time forge or counterfeit any Entry of the Acknowledgment of any such Memorial, Certificate, or Indorsement, and be thereof lawfully convicted, such person or persons shall incur and be liable to such pains and penalties as by 5 Eliz. c. 14. are imposed on persons forging and publishing false Deeds, &c. whereby the Freehold or Inheritance of any person of, in, or to any Lands, Tenements, or Hereditaments shall or may be molested, troubled, or charged.

Penalty on persons forging entry of memorials of deeds or certificates, &c.

VI. ii. Forging Documents relating to Suitors in Chancery.

If any person or persons shall, after 1 May 1726, forge or counterfeit, or procure to be forged or counterfeited, or willingly act or assist in the forging or counterfeiting, the name or hand of the said Accountant General (i. e. of the Court of Chancery), the said Register, the said Clerk of the Report Office, or any of the Cashiers of said Governor and Company of the Bank of England, to any Certificate, Report, Entry, Indorsement, Declaration of Trust, Note, Direction, Authority, Instrument, or Writing whatsoever, for or in order to the receiving or obtaining any the Money or Effects of any of the Suitors of the said Court of Chancery; or shall forge or counterfeit, or procure to be forged or counterfeited, or wilfully act or assist in forging or counterfeiting, any Certificate, Report, Entry, Indorsement, Declaration of Trust, Note, Direction, Authority, Instrument, or Writing in form of a Certificate, Report, Entry, Indorsement, Declaration of Trust, Note, Direction, Authority, Instrument, or Writing made by such Accountant General, Register, Clerk of the Report Office, or any of the Cashiers of the said Governor and Company of the Bank of England; or shall utter or publish any such, knowing the same to be forged or counterfeited, with intention to defraud any person whatsoever; then every such person and persons so offending (being thereof lawfully convicted) shall be and is hereby declared and adjudged to be guilty of Felony, and shall suffer Death as in case of Felony without benefit of Clergy. 12 G. 1. c. 32. s. 9.

Forging, &c. or procuring to be forged, &c. or willingly acting in forging, &c. the name or hand of the Accountant General, &c. of Chancery, to any certificate, &c. in order to receive the effects of suitors;

or knowingly publishing the same as true;

shall be guilty of felony, without benefit of clergy.

VI. iii. Forging Mediterranean Passes.

Persons forging
Mediterranean
passes, shall be
adjudged guilty
of felony without
clergy.

In reference to the treaties between this Kingdom and the Barbary Powers, by which, on producing a Pass in a certain form, the latter agree to let British Ships go free, the Statute 4 G. 2. c. 18. enacts, that if any person or persons, after the 24 June 1731, shall within Great Britain or Ireland, or in any other his Majesty's Dominions or without, falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or wittingly or knowingly act or assist in the false making, forging, or counterfeiting, any Pass or Passes for any Ship or Ships whatsoever, commonly called a Mediterranean Pass or Mediterranean Passes, or shall counterfeit the seal of the said Office, or the hand or hands of the Lord High Admiral of Great Britain and Ireland for the time being, or of any Commissioner or Commissioners for executing the said Office for the time being, to any such Pass or Passes, or shall alter or erase any true and authentic Pass or Passes issued or made out by the Lord High Admiral of Great Britain and Ireland, or the Commissioners for executing the said Office for the time being, or shall utter or publish as true any such false, forged, counterfeited, altered, or erased Pass or Passes, knowing the same to be false, forged, counterfeited, altered, or erased; all and every such person and persons, being in due form of Law convicted of any of the offences aforesaid, in any proper Court of Great Britain, Ireland, or any of his Majesty's Plantations beyond the Seas, where such offence shall be committed respectively, shall be adjudged guilty of Felony; and shall suffer Death as in cases of Felony, without benefit of Clergy. s. 1.

Offences committed out of G.B. and within or without his Majesty's dominions, may be tried in any County in Great Britain.

All and every the Crimes and Offences before mentioned which shall be done or committed in any County or Place out of Great Britain, either within the Dominions of his Majesty, his Heirs or Successors, or without, shall and may be enquired of, tried, heard, determined, and adjudged in any Shire or County of Great Britain by virtue of the King's Commission or Commissions of Oyer and Terminer and Gaol Delivery, or before any Court of Justiciary in Scotland respectively, in the same manner as if such Offence or Offences was or were done or committed within the same County or Shire where such Offender or Offenders shall be tried; any Law, Statute, Custom, or Usage to the contrary notwithstanding.

VI. iv. *Forging Marriage Registers or Licences, or the Registers, &c. of Births, Baptisms, or Burials.*

By the Statute 26 G. 2. c. 33. "for the better preventing of Clandestine Marriages," it is enacted, (by s. 16.) if any person shall, with intent to elude the force of this Act, knowingly and wilfully insert, or cause to be inserted in the Register Book of such Parish or Chapelry as aforesaid, any false Entry of any matter or thing relating to any Marriage; or falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or act or assist in falsely making, altering, forging, or counterfeiting, any such Entry in such Register, or falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or assist in falsely making, altering, forging, or counterfeiting, any such Licence of Marriage as aforesaid, or utter or publish as true any such false, altered, forged, or counterfeited Register as aforesaid, or a Copy thereof, or any such false, altered, forged, or counterfeited Licence of Marriage, knowing such Register or Licence of Marriage respectively to be false, altered, forged, or counterfeited; or if any person shall wilfully destroy, or cause or procure to be destroyed, any Register Book of Marriages, or any part of such Register Book, with intent to avoid any Marriage, or to subject any person to any of the penalties of this Act; every person so offending, and being thereof lawfully convicted, shall be deemed and adjudged to be guilty of Felony, and shall suffer Death as a Felon without benefit of Clergy.

Persons making, &c. false entries of marriages;

or forging, &c. any such entry;

or forging, &c. any marriage licence;

or destroying any register book;

declared guilty of felony, without clergy.

The Statute 52 G. 3. c. 146. for better regulating and preserving Parish and other Registers of Births, Baptisms, Marriages, and Burials in *England*, enacts, (s. 14.) that if any person shall knowingly and wilfully insert, or cause or permit to be inserted, in any such Register Book of such Baptisms, Burials or Marriages as aforesaid, or in any such copy of any such Register so directed to be transmitted to the Registrars as aforesaid, or in any such Lists or Declarations also directed to be transmitted to such Registrars as aforesaid, any false entry of any matter or thing relating to any Baptism, Burial, or Marriage, or shall falsely make, alter, forge, or counterfeit, or cause or procure, or wilfully permit, to be falsely made, altered, forged, or counterfeited, any part of any such Register, List, or Declaration, or of any such Copy of any such Register; or shall wilfully destroy, deface, or injure, or

Persons altering or forging entries of baptism, marriages, burials, &c. or copies thereof, or signing or certifying false copies, &c. guilty of felony.

cause or procure or permit to be destroyed, defaced, or injured, any such Register Book, or any part thereof; or shall knowingly and wilfully sign or certify any Copy of any such Register hereby required to be transmitted as aforesaid, which shall be false in any part thereof, knowing the same to be false; every person so offending, and being thereof lawfully convicted, shall be deemed and adjudged to be guilty of Felony, and shall be transported for the term of Fourteen Years.

The above clause appears to be a virtual repeal of the greatest part of the sixteenth section of the Statute 26 G. 2.; though it is worthy of remark, that the Statute 53 G. 3. c. 146. no otherwise notices the Act of George the Second than by a proviso in the last section, that "nothing in this act contained shall extend to repeal *any provision* contained in the Statute of George the Second."

VI. v. *Forging Franks of Letters, or Stamps or Marks designating the Postage upon Letters.*

§ 1.
Persons forging
superscription
of letters;

shall be guilty of
felony.

If any person whatsoever shall [after the end of the then Session of Parliament] forge or counterfeit the Handwriting of any person whatsoever, in the Superscription of any Letter or Packet to be sent by the Post, in order to avoid the Payment of the Duty of Postage, or shall forge, counterfeit, or alter, or shall procure to be forged, counterfeited, or altered, the Date upon the Superscription of any such Letter or Packet, or shall write and send by the Post, or cause to be written and sent by the Post, any Letter or Packet, the Superscription or Cover whereof shall be forged or counterfeited, or the Date upon such Superscription or Cover altered in order to avoid the Payment of the Duty of Postage, knowing the same to be forged, counterfeited, or altered; every person so offending, and being thereof convicted in due form of Law, shall be deemed guilty of Felony, and shall be transported for Seven Years. 24 G. 3. st. 2. c. 37. s. 9.

The last act, altering the Rates of Postage, 41 G. 3. c. 7. s. 11. incorporates all former general provisions, and the above clause is repeated verbatim in the Act 42 G. 3. c. 63. s. 14.

§ 2.
Persons forging
marks on letters,
guilty of a mis-
demeanor,

The Statute 54 G. 3. c. 169. making Regulations respecting the Postage of Ship Letters, and of Letters in Great Britain, enacts (s. 14.), that if any person shall forge or counterfeit, or cause to be forged or counterfeited, any Stamp, Mark of Postage or Designation, upon any Letter hereby authorized to be so

marked, stamped, or designated, with intent to avoid the Payment of the Rate of Postage hereby imposed, each and every person and persons so offending shall be deemed and taken to be guilty of a Misdemeanor, to be punished by Fine and Imprisonment; and such offence, if committed within Great Britain, shall and may be inquired of, tried, and adjudged, either within the City of London, or where the offence shall be committed.

VI. vi. Forging any Exchequer Bills, or the Indorsement thereof, or Certificates or Debentures, &c. relating to certain Annuities granted to redeem Exchequer Bills.

The Statute 48 G. 3. c. 1. "for regulating the issuing and paying off of Exchequer Bills," enacts (s. 9.), that if any person or persons shall forge or counterfeit any Exchequer Bill, or any Indorsement or Writing thereupon or therein, or tender in Payment any such forged or counterfeited Bill, or any Exchequer Bill with such counterfeit Indorsement or Writing thereon, or shall demand to have such counterfeit Bill, or any Exchequer Bill with such counterfeit Indorsement or Writing thereupon or therein, exchanged for Ready Money, or for another Exchequer Bill, by any Person or Persons, Body or Bodies Politick or Corporate, who shall be obliged or required to exchange the same, or by any other person or persons whatsoever, knowing the Bill so tendered in payment or demanded to be exchanged, or the Indorsement or Writing thereupon or therein to be forged or counterfeited, and with intent to defraud his Majesty, his Heirs and Successors, or the persons to be appointed to pay off the same, or any of them, or to pay any Interest thereupon, or the Person or Persons, Body or Bodies Politick or Corporate, who shall contract or circulate or exchange the same, or any of them, or any other Person or Persons, Body or Bodies Politick or Corporate; then every such person or persons so offending, being thereof lawfully convicted, shall be adjudged a Felon, and shall suffer as in cases of Felony, without benefit of Clergy.

Forging Exchequer Bills, or the indorsement, &c. thereon, or demanding an exchange thereof, or money thereon, declared a capital felony.

By the Statute 53 G. 3. c. 41. "for granting Annuities to satisfy certain Exchequer Bills, and for raising Money by Debentures for the Service of Great Britain," it is enacted (s. 26), that if any person or persons shall forge or counterfeit, or cause or procure to be forged or counterfeited, or shall willingly act or assist in the forging or counterfeiting, any Certificate or Certificates, Debenture or Debentures, directed to be made out by this Act, or any Assignment thereof or Indorsement thereon,

Persons forging, &c. or uttering any certificate or debenture, or assignment, &c. thereof, shall be guilty of felony, without benefit of clergy.

or shall alter any Number, Figure, or Word, in any such Certificate or Debenture, or in any Assignment thereof or Indorsement thereon, or utter or publish as true any such false, forged, counterfeited or altered Certificate or Certificates, Debenture or Debentures, or Assignment or Assignments thereof, or Indorsement or Indorsements thereon, with intent to defraud his Majesty, or the Governor and Company of the Bank of England, or any Body Politick or Corporate, or any person or persons whomsoever, every such person or persons so forging or counterfeiting, or causing or procuring to be forged or counterfeited, or willingly acting or assisting in the forging or counterfeiting, or altering, uttering or publishing, as aforesaid, being thereof convicted in due form of Law, shall be adjudged guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy.

Persons forging, &c. or uttering any receipt or certificate for certain Annuities or Exchequer Bills, declared guilty of felony, without benefit of clergy.

By the Statute 58 G. 3. c. 23. "for raising a Sum of Money by the Transfer of certain Annuities into other Annuities, and for granting Annuities to discharge certain Exchequer Bills," it is enacted (s. 38.), that if any person or persons shall forge or counterfeit, or cause or procure to be forged or counterfeited, or shall willingly act or assist in the forging or counterfeiting, any Receipt or Receipts, or Certificate or Certificates, for the whole or any part or parts of the said Money, Annuities, or Exchequer Bills, subscribed under the provisions of this Act, either with or without the Name or Names of any person or persons being inserted therein, as the Subscriber or Subscribers thereto, or Transferrer or Transferrers, or Payer or Payers thereof, or of any part or parts thereof, or any Certificate or Certificates directed to be made out by this Act, or any Assignment thereof or Indorsement thereon; or shall alter any Number, Figure, or Word therein respectively, or utter or publish as true any such false, forged, counterfeited, or altered Receipt or Receipts, or Certificate or Certificates, or Assignment or Assignments thereof, or Indorsement or Indorsements thereon, with intent to defraud his Majesty, or the Governor and Company of the Bank of England, or any Body Politick or Corporate, or any person or persons whatsoever; every such person or persons so forging or counterfeiting, or causing or procuring to be forged or counterfeited, or willingly acting or assisting in the forging or counterfeiting, or altering, uttering, or publishing as aforesaid, being thereof convicted in due form of Law, shall be adjudged guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy.

VI. vii. *Forging any Share, Chance, or Agreement, relating to Lottery Tickets.*

By the Statute 47 G. 3. st. 2. c. 9. s. 39. and 49 G. 3. c. 94. s. 41. (1), "for raising Money by Lotteries," it is enacted, that if any person or persons shall forge or counterfeit, or cause or procure to be forged or counterfeited, or shall willingly act or assist in the forging or counterfeiting, any Share or Shares, Chance or Chances, or any Agreement or Agreements for any Share or Shares, Chance or Chances respectively, of any Ticket or Tickets in any Lottery to be drawn in pursuance of this Act; or alter any Number, Figure, Word, Letter, or Stamp therein or thereon; or shall knowingly utter, vend, barter, or dispose of any such forged, counterfeited, or altered Share or Shares, Chance or Chances, or Agreement or Agreements for any Share or Shares, Chance or Chances, of any Ticket or Tickets, with intent to defraud any person or persons; then and in every such case, all and every person and persons so offending, and being thereof duly convicted, shall be adjudged guilty of Felony, and suffer as a Felon.

Persons counterfeiting any share, chance or agreement of or for the Lottery, shall be guilty of felony.

VI. viii. *Making, signing, or giving, any false Certificate, Bill of Parcels, &c. relating to the Purchase of Naval, Ordnance, or Victualling Stores.*

By s. 26. of the Statute 39, 40 G. 3. c. 89. (2) "for preventing the Embezzlement of His Majesty's Naval, Ordnance, or Victualling Stores," it is enacted, that if any person or persons shall make, sign, or give any false Certificate, Bill of Parcels, or other Instrument, purporting the identity or the sale or disposal of any goods or stores, as goods or stores so purchased of the said Commissioners as aforesaid; or if any person or persons shall utter or publish any such false Certificate, Bill of Parcels, or other Instrument, purporting as aforesaid, knowing the same to be false; every such offender, upon conviction thereof in due form of Law, shall forfeit the sum of two hundred pounds, and be further corporally punished as by this Act is directed with respect to persons having in their possession or concealing his Majesty's Warlike, Naval, or Ordnance Stores, contrary to the said Act

Persons making, &c. or giving any false certificate, bill of parcels, &c. relating to the purchase of King's stores, or uttering same, shall forfeit £200, and be corporally punished.

(1) The wording of these clauses is in both the Acts verbatim the same.

(2) See this Act at length under title LARCENY and ROBBERY, XIV.

[9, 10 W. 3. c. 41.]; one moiety of which penalty shall be to his Majesty, his Heirs and Successors, and the other moiety thereof, with full costs of suit, to the informer, to be recovered in such manner as the penalty of £200 inflicted by the last mentioned Act is by that Act, or any Law now in force, made recoverable.

VI. ix. *Forging any Certificate, Receipt, or Note, under the Vagrant Act.*

Penalty of £50 for forging certain papers made use of under the Vagrant Act.

In case any such petty Constable or other Officer or Governor or Master of any House of Correction, shall counterfeit any such Certificate (1), Receipt (2), or Note (1), or make, or knowingly permit to be made, any alteration in any such Certificate, Receipt, or Note, he shall forfeit the sum of fifty pounds, to be levied by distress and sale of the offender's goods, by warrant or order of the Justices of the Peace where such offence shall be committed, at their General or Quarter Sessions, one moiety to the party first making information against any such offender, and the other to the Treasurer of the County or place, to be applied by him as part of the public stock, returning the overplus (if any) to the defendant on demand. 17 G. 2. c. 5. s. 18.

VI. x. *Forging Instruments used in transacting the Redemption and Sale of the Land Tax.*

Persons forging, &c. or uttering certain specified instruments made use of in transacting the redemption and sale of the Land Tax, ousted of clergy.

The Statute 42 G. 3. c. 116., which consolidates the provisions of all former Acts relating to the Redemption and Sale of the Land Tax, enacts (s. 194.), that if any person shall forge, counterfeit, or alter, or cause or procure to be forged, counterfeited, or altered, or knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any Contract or Contracts for the Redemption or Sale of any Land Tax, or any Assignment or Assignments of any such Land Tax, or of any such Contract or Contracts, or of any portion of Land Tax therein comprized, or any Certificate or Certificates of the Commissioners of Land Tax, or of Supply, or of any Chief Magistrate authorized by this Act to make out such Certificate or Certificates, or of the Surveyor General of the Land Revenue of the Crown, or of

(1) By the Justice making a Vagrant Pass, who shall deliver to the Constable, &c. conveying such Vagrant, such a Note or Certificate, ascertaining how such Vagrants are to be conveyed. See s. 10. of the Act.

(2) For the Reward given by the Act to the Apprehenders of Vagrants, see s. 5. of the Act.

the Duchy of Cornwall, or any Certificate or Certificates, Receipt or Receipts of the Cashier or Cashiers of the Governor and Company of the Bank of England, or any Certificate or Certificates, or attested Copy of any Certificate or Certificates, directed by this Act to be made out by the proper Officer; or shall wilfully deliver or produce to any person or persons acting under the authority of this Act, or shall utter any such forged, counterfeited, or altered Contract or Contracts, Assignment or Assignments, Certificate or Certificates, Receipt or Receipts, knowing the same to be forged, counterfeited, or altered, with intent to defraud his Majesty, his Heirs or Successors, or any Body or Bodies Politic or Corporate, or Company, or other person or persons whomsoever, then and in every such case all and every person or persons so offending, and being lawfully convicted thereof, shall be adjudged guilty of Felony, and shall suffer Death as in cases of felony, without benefit of Clergy.

The Statute 52 G. 3. c. 143. (1) *declares* and enacts (by s. 6.), that if any person shall, after the passing of this Act, forge, counterfeit, or alter, or cause or procure to be forged, counterfeited, or altered, or knowingly or wilfully act or assist in the forging, counterfeiting, or altering, any Contract, Assignment, Certificate, Receipt, or attested Copy of any Certificate made out, or purporting to be made out by any person or persons authorized to make out the same by any Act of Parliament, touching the Redemption or Sale of the Land Tax, or of any part thereof; or if any person shall wilfully utter any such forged, counterfeited, or altered Contract, Assignment, Certificate, Receipt, or attested Copy of Certificate, knowing the same to be forged, counterfeited, or altered, with intent to defraud His Majesty, his Heirs or Successors, or any Body or Bodies Politick or Corporate, or other person or persons; every person so offending, and being thereof convicted, shall be adjudged guilty of Felony, and shall suffer Death as a felon, without benefit of Clergy.

(1) This Act does not in any way notice the former one of 42 G. 3, on the same subject.

VII. *Forgeries relating to private Papers, Securities, and Documents.*

i. *Forging Deeds, Charters, Writings, sealed Court-Rolls, or Wills.*

The penalty for forging or publishing any false deed or writing, whereby the freehold of another shall be molested.

Dyer, 288. 302.
322.
Rast. 359.
3 Inst. 103. 169.
13 W. 34. 35.
1 Hawk. P. C.
182.
1 Hale, P. C.
682.

Reciting that the wicked, pernicious, and dangerous practice of making, forging, and publishing false and untrue Charters, Evidences, Deeds, and Writings, had much increased, by reason that the punishment then existing was so small, enacts, that if any person of their own head and imagination, or by false conspiracy and fraud with others, shall wittingly, subtilly, and falsely forge or make, or subtilly cause or wittingly assent to be forged or made, any false *Deed* (1), Charter, or Writing sealed, Court-Roll, or the *Will* (1) of any person in writing, to the intent that the state of freehold or inheritance of any person of, in, or to any lands, tenements, or hereditaments, freehold or copyhold, or the right, title, or interest of any person of, in, or to the same or any of them, shall or may be molested, troubled, defeated, recovered, or charged; or shall pronounce, publish, or shew forth in evidence any such false and forged *Deed* (1), Charter, Writing, Court-Roll, or *Will* (1) as true, knowing the same to be false and forged, to the intent above remembred; and shall be thereof convicted, either upon action of Forger of false Deeds, to be founded upon this Statute, at the suit of the party grieved, or otherwise according to the order and due course of the Laws of this Realm, shall pay unto the party grieved his double costs and damages, to be found or assessed in that Court where such conviction shall be, and also shall be set upon the Pillory (2), in some open Market town, or other open place, and there to have both his ears cut off, and also his nostrils to be slit and cut, and seared with a hot iron, so as they may remain for a perpetual note or mark of his falsehood, and shall forfeit the whole issues and profits of his lands and tenements during his life, and also shall suffer and have perpetual imprisonment during his life; such damages and costs to be recovered at the suit of the party grieved, to be first levied of the goods and chattels of the offender, and of the profits of such lands, &c. 5 Eliz. c. 14. s. 2.

The penalty of forging any deed or writing, whereby any term for years, or annuity, may be claimed;

If any person, upon his own head or imagination, or by false conspiracy or fraud had with any other, shall wittingly, subtilly, and falsely forge or make, or wittingly, subtilly, and falsely cause or assent to be made and forged, any false Charter,

(1) Made Felony by 2 G. 2. c. 25. 9 G. 2. c. 18.

(2) This part of the punishment is now repealed. See title PILLORY.

Deed (1), or Writing, to the intent that any person shall or may have or claim any estate or interest for term of years of, in, or to any manors, lands, tenements, or hereditaments, not being copyhold, or any Annuity in fee simple, fee tail, or for term of life, lives, or years; or shall as is aforesaid forge, make, or cause or assent to be made or forged, any Obligation or Bill Obligatory, or any Acquittance, Release, or other Discharge of any Debt, Account, Action, Suit, Demand, or other things personal; or if any person shall pronounce, publish, or give in evidence any false and forged Charter, Deed, Writing, Obligation, Bill Obligatory, Acquittance, Release, or Discharge, as true, knowing the same to be false and forged, and shall be thereof convicted by any the ways or means aforesaid, he shall pay to the party grieved his double costs and damages, to be found and assessed as aforesaid, and shall be also set upon the Pillory (2) in some open Market town, or other open place, and there to have one of his ears cut off, and shall also be imprisoned one whole year. s. 3.

or any obligation, acquittance, release, or bill obligatory.

Godbolt, 62.

pl. 75.

2 Brownl. 49.

1 Lutw. 190.

The party grieved may at their pleasure sue his action upon this Statute by original writ out of Chancery, or Bill in K. B. s. 4.

A Defendant convicted upon this Act, and having received Corporal Punishment, shall not eftsoons be impeached for the same offence. s. 5.

Although the party Plaintiff shall, after Verdict against the Defendant, release Judgment or Execution, yet that shall only discharge such Costs and Damages as such Plaintiff should have had, and the Judges shall proceed to Judgment upon the residue of the Penalties and Forfeitures, and shall command execution upon the same. s. 6.

The plaintiff's release shall discharge only his own remedy.

If any person convicted of any the Offences aforesaid shall, after such Conviction, eftsoons commit or perpetrate any of the said offences in form aforesaid, every such Second Offence shall be adjudged Felony, and the parties being convicted or attainted thereof, according to Law, shall suffer such Pains of Death, Forfeiture of Goods and Lands, as in cases of Felony at Common Law ought to be forfeited, without having any benefit of Clergy, saving to all Persons and Bodies Politick, &c. their rights and interests in the Lands, &c. of the persons so attainted. s. 7.

The second offence of forging such instruments, shall be felony.

(1) Made Felony by 2 G. 2. c. 25. 9 G. 2. c. 18.

(2) See note (2), p. 296.

To whom this
act shall not
extend.

This Act shall not take away Dower, or corrupt the Blood, s. 8.; nor extend to charge any Ordinary, or their Officials, Commissaries, Registers, or other Ministers, with any offence for putting their Seal of Office to any Will exhibited to them, not knowing the same to be forged, or for the writing of any Will, or Probate of the same. s. 9.

Who may deter-
mine offences.

Justices of Oyer and Determiner, and Justices of Assise in their Circuit, in their Open and General Sessions, may hear and determine offences, and make process thereon. s. 10.

9 Co. 118.
Cro. Eliz. 87.
601.

A repeal of all Statutes theretofore made against the Forgery of False Deeds, Charters, Muniments, or Writings. s. 11.

To whom this
act shall not
extend.

This Act shall not extend to any Proctor, Advocate, or Register of any Ecclesiastical Court, for writing, &c. of any Proxy according to custom being cited, nor to any Archdeacon or Official for putting their Seals to any such Proxy, nor to any Ecclesiastical Judge admitting the same, s. 12.; nor to any Attorney, Lawyer, or Counsellor, who for his Client shall plead, shew forth, or give in Evidence any such forged Instrument before mentioned for true, being not privy to the forging thereof, s. 15.; nor to any one shewing forth or pleading any Deed or Writing under the Great Seal, or the authentic Seal of any Court; nor to any Judge, Justice, or other person causing any Seal to be set to any such Deed, &c. inrolled, not knowing the same to be forged. s. 16.

VII. ii. Forging any Deed, Will, Testament, Bond, Writing Obligatory, Bill of Exchange, Promissory Note for the Payment of Money, Indorsement or Assignment of such Bill or Note, Acquittance or Receipt for Money or Goods, or any Acquittance of any Bill of Exchange, or the Number or Principal Sum of any accountable Receipt for any Note, Bill, or other Security for Payment of Money, or any Warrant or Order for Payment of Money, or Delivery of Goods, or uttering or publishing the same.

Persons forging
any deed, will,
testament, bond,
bill of exchange,
promissory note,
indorsement or
assignment, or
acquittance or
receipt, or utter-
ing the same as

Whereas the wicked, pernicious, and abominable crime of Forgery has of late time been so much practised, to the subversion of Common Trust and Justice, and prejudice of Trade and Credit, that it is necessary for the more effectual preventing of such enormous offence, to inflict a more exemplary punishment on such Offenders than by the Laws of this Realm can now be done; be it therefore enacted, that if any person, after 29th June

1729, shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, or forged counterfeited (1), or willingly act or assist in the false making, forging, or counterfeiting, any Deed, Will, Testament, Bond, Writing Obligatory, Bill of Exchange, Promissory Note for payment of Money, Indorsement or Assignment of any Bill of Exchange, or Promissory Note for payment of Money, or any Acquittance or Receipt either for Money or Goods, with intention to defraud any person whatsoever, or shall utter or publish as true any false, forged, or counterfeited Deed, Will, Testament, Bond, Writing Obligatory, Bill of Exchange, Promissory Note for payment of Money, Indorsement or Assignment of any Bill of Exchange, or Promissory Note for payment of Money, Acquittance or Receipt either for Money or Goods, with intention to defraud any person, knowing the same to be false, forged, or counterfeited; then every such person, being thereof lawfully convicted according to the due course of Law, shall be deemed guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy. 2 G. 2. c. 25. s. 1.

By s. 4. this Act shall not extend to Scotland; and by s. 5. no Attainder for any offence hereby made Felony shall make or work any Corruption of Blood, loss of Dower, or disherison of Heirs.

This Statute is made perpetual by 9 G. 2. c. 18. See post, 31 G. 2. c. 22. extending the above Act of 2 G. 2.

The Statute 7 G. 2. c. 22. recites the Act 2 G. 2. c. 25. and that no Punishment is inflicted by the said Act on such as commit the Offences thereafter mentioned; and then enacts, that if any person, after the 24th June 1734, shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly act or assist in the false making, altering, forging, or counterfeiting, any Acceptance of any Bill of Exchange, or the Number or principal Sum of any accountable Receipt for any Note, Bill, or other Security for Payment of Money, or any Warrant or Order for Payment of Money or Delivery of Goods, with intention to defraud any person whatsoever; or shall utter or publish as true any false, altered, forged, or counterfeited Acceptance of any Bill of Exchange, or accountable Receipt for any Note, Bill, or other Security for Payment of Money, or War-

Extended to persons who shall forge the acceptance of any bill of exchange, &c. or the principal sum of any accountable receipt for any note, &c. or knowingly uttering the same.

(1) The word "or" in this sentence appears to be by mistake placed before the word forged, instead of being made to follow it.

rant or Order for Payment of Money or Delivery of Goods, with intention to defraud any person (1), knowing the same to be false, altered, forged, or counterfeited; then every such person, being thereof lawfully convicted according to the due course of Law, shall be deemed guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy.

Forging, &c. any deed, will, bond, bill, acquittance, &c. with intent to defraud any corporation, declared to be a capital felony.

The Statute 31 G. 2. c. 22. s. 78. recites, that "doubts may arise whether the punishment inflicted by 2 G. 2. c. 25. s. 1. on persons guilty of the several species of Forgery therein mentioned, extends to the commission of the like Forgeries, with an intention to defraud any Corporation;" and then enacts, that if any person, after 1st July 1758, shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly act or assist in the false making, forging, or counterfeiting, any Deed, Will, Testament, Bond, Writing Obligatory, Bill of Exchange, Promissory Note for payment of money, Indorsement or Assignment of any Bill of Exchange or Promissory Note for payment of money, or any Acquittance or Receipt either for Money or Goods, with an intention to defraud any Corporation whatsoever; or shall utter or publish as true any false, forged, or counterfeit Deed, Will, Testament, Bond, Writing Obligatory, Bill of Exchange, Promissory Note for payment of money, Indorsement or Assignment of any Bill of Exchange or Promissory Note for payment of money, Acquittance or Receipt either for Money or Goods, with intention to defraud any Corporation, knowing the same to be false, forged, or counterfeited; then every such person, being thereof lawfully convicted, according to the due course of Law, shall be deemed guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy.

The provisions of 7 G. 2. c. 22. extended to corporations.

The Statute 18 G. 3. c. 18. intitled "An Act to *explain* an Act passed," &c. [7 G. 2. c. 22.], recites, that "doubts have arisen whether the punishment inflicted by that Act on persons guilty of the several species of Forgery therein mentioned, extends to such Forgeries when committed with an intention to defraud any Corporation," and then re-enacts, *in terms*, the provisions of the said Statute 7 G. 2. c. 22. with the alteration only of the words *any Corporation whatsoever*, in the averment of the intent to defraud.

The Statute 45 G. 3. c. 89., "to alter and extend the Provisions of the Laws now in force for the Punishment of the

(1) Or any Corporation by Statute 18 G. 3. c. 18. which see post.

Forgery of Bank Notes, Bills of Exchange, and other Securities, to every part of Great Britain," recites the Statutes 2 G. 2. c. 25. 7 G. 2. c. 22. 31 G. 2. c. 22. 15 G. 2. c. 13. and 41 G. 3. (U. K.) c. 39. (1), whereby certain Provisions were made and enacted for the preventing and punishing the Forgery of Bank Notes, and other Notes, Bills, and Instruments in those Acts respectively mentioned; and that it is expedient that such Provisions should extend and be in force in every part of Great Britain, with such alterations and amendments thereon as are hereby made; and then enacts (by s. 1.), that if any person or persons shall, from and after the passing of this Act, falsely make, forge, counterfeit, or alter, or cause or procure to be falsely made, forged, counterfeited, or altered, or willingly act or assist in the false making, forging, counterfeiting, or altering, any Deed, Will, Testament, Bond, Writing obligatory, Bill of Exchange, Promissory Note for Payment of Money, Indorsement or Assignment of any Bill of Exchange or Promissory Note for Payment of Money, Acceptance of any Bill of Exchange, or any Acquittance or Receipt either for Money or Goods, or any accountable Receipt for any Note, Bill, or other Security for Payment of Money, or any Warrant or Order for Payment of Money or Delivery of Goods, with intention to defraud any person or persons, Body or Bodies Politick or Corporate whatsoever; or shall offer, dispose of, or put away any false, forged, counterfeited, or altered Deed, Will, Testament, Bond, Writing obligatory, Bill of Exchange, Promissory Note for Payment of Money, Indorsement or Assignment of any Bill of Exchange or Promissory Note for Payment of Money, Acceptance of any Bill of Exchange, Acquittance or Receipt either for Money or Goods, accountable Receipt for any Note, Bill, or other Security for Payment of Money, Warrant or Order for Payment of Money or Delivery of Goods, with intention to defraud any Person or Persons, Body or Bodies Politick or Corporate, knowing the same to be false, forged, counterfeited, or altered; then every person or persons so offending, and being thereof lawfully convicted according to the due course of Law, shall be deemed guilty of Felony, and shall suffer Death as a Felon without Benefit of Clergy.

Persons forging deeds, wills, bonds, bills, notes, indorsement or assignments thereon, or acquittances, accountable receipts, or warrants for payment of money, &c. with intent to defraud any person, or any corporation, or offering or putting away, &c. the same, ousted of clergy.

(1) See this Act under title BANK of ENGLAND, Division II, and III.

VII. iii. *Forging Foreign Bills of Exchange, &c. or uttering the same, or unlawfully engraving plates, &c. for such Bills, &c.*

Persons forging,
&c. any foreign
bill of exchange,
&c. or uttering
the same know-
ingly, guilty of
felony, and liable
to be transported
for 14 years.

The Statute 43 G. 3. c. 139. reciting that "the practice of forging and counterfeiting Foreign Bills of Exchange, Foreign Promissory Notes, and Foreign Orders for Payment of Money, hath of late greatly increased, and Plates of such Bills, Notes, and Orders, have been in some instances engraven within the United Kingdom of Great Britain and Ireland, whereby such Forgeries have been more easily committed, and it is expedient that effectual provision should be made for the preventing of the same," enacts, that if any person, from and after the passing of this Act, shall within any part of the United Kingdom of Great Britain and Ireland, falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or knowingly aid or assist in the false making, forging, or counterfeiting, any Bill of Exchange, or any Promissory Note, Undertaking, or Order for the Payment of Money, purporting to be the Bill of Exchange, Promissory Note, Undertaking, or Order for the Payment of Money, of any Foreign Prince, State, or Country whatsoever, or of any Minister or Officer entrusted by or employed in the service of any Foreign Prince, State, or Country, or of any Person or Company of Persons resident in any Foreign State or Country, or of any Body Corporate and Politick, and Body in the nature of a Body Corporate and Politick, created or constituted by any Foreign Prince or State, with intent to deceive or defraud His Majesty, his Heirs and Successors, or any such Foreign Prince, State, or Country, or with intent to deceive or defraud any Person or Company of Persons whomsoever, or any Body Corporate and Politick, or Body in the nature of a Body Corporate and Politick whatsoever, whether the same be respectively resident, carrying on business, constituted, or being in any part of the United Kingdom, or in any Foreign State or Country, and whether such Bill of Exchange, Promissory Note, or Order be in the English Language or in any Foreign Language or Languages, or partly in one and partly in the other; or if any Person, from and after the passing of this Act, shall, within any part of the said United Kingdom, tender in Payment or in Exchange, or otherwise utter or publish as true, any such false, forged, or counterfeited Bill of Exchange, Promissory Note, Undertaking, or Order, knowing the same to be false, forged, or counterfeited, with intent to deceive or

defraud His Majesty, his Heirs and Successors, or any Foreign Prince, State, or Country, or any Person or Company of Persons, or any Body Corporate and Politick, or Body in the nature of a Body Corporate and Politick as aforesaid, then every Person so offending shall be deemed and taken to be guilty of Felony, and being thereof lawfully convicted shall be transported for any term of years not exceeding Fourteen Years.

No Person, from and after the passing of this Act, shall within any part of the United Kingdom of Great Britain and Ireland engrave, cut, etch, scrape, or by any other means or device make, or knowingly aid or assist in the engraving, cutting, etching, scraping, or by any other means or device making, in or upon any plate whatsoever, any Bill of Exchange, or any Promissory Note or Undertaking, or Order for the Payment of Money, purporting to be the Bill of Exchange, Promissory Note, Undertaking, or Order of any Foreign Prince, State, or Country, or of any Minister or Officer entrusted by or employed in the Service of any Foreign Prince, State, or Country, or of any Person or Company of Persons resident or being in any Foreign State or Country, or of any Body Corporate and Politick, or Body in the nature of a Body Corporate and Politick, or constituted by any Foreign Prince or State, or any Part of such Bill of Exchange, Promissory Note, Undertaking, or Order, without an Authority in Writing for that purpose from such Foreign Prince, State, or Country, Minister or Officer, Person, Company of Persons, or Body Corporate and Politick, or Body in the nature of a Body Corporate and Politick, or from some Person duly authorized to give such Authority, or shall, within any part of the said United Kingdom, without such Authority as aforesaid, by means of any such Plate, or by any other device or means, make or print any such Foreign Bill of Exchange, Promissory Note, Undertaking, or Order for the Payment of Money, or any part thereof, or knowingly, wilfully, and without lawful excuse, (the proof whereof to lie upon the party accused) have in his or her Custody any such Plate or Device, or any Impression taken from the same; and if any person shall offend in any of the Cases aforesaid, he shall be deemed and taken to be guilty of a Misdemeanor and Breach of the Peace, and being thereof convicted according to Law, shall be liable for the first Offence to be imprisoned for any time not exceeding Six Months, or to be fined, or to be publicly or privately whipped, or to suffer one or more of the said punishments; and for the second offence to be transported to any of His Majesty's

Unauthorized persons engraving, &c. plates for such bills of exchange, &c. printing them, for the first offence guilty of a misdemeanor, and for the second liable to be transported.

Cólonies or Plantations for the term of Fourteen Years; provided always, that nothing in this Act contained shall extend, or be construed to extend, in any manner whatsoever, to repeal or alter any Law or Statute now in force for the prevention and punishment of the Crime of Forgery in any respect whatsoever, within any part of the said United Kingdom.

Game.

(And see Title CONIES.)

§ 1. *Offences relating to Deer.*

§ 2. *For the preventing of persons going armed in the night for the Destruction of Game in general.*

§ 1.

Persons being armed and disguised appearing in any forest, &c. where deer, or in any warren, &c. where hares or conies are kept, and hunting, &c. ;

or forcibly rescuing such offenders; or procuring others to join them in such acts, guilty of felony, without clergy.

If any person or persons, after 1st June 1723, being armed with Swords, Fire-Arms, or other offensive Weapons, and having his or their faces blacked, or being otherwise disguised, shall appear in any Forest, Chase, Park, Paddock, or Grounds inclosed with any Wall, Pale, or other Fence, wherein any Deer have been or shall be usually kept, or in any Warren or Place where Hares or Conies have been or shall be usually kept, or in any high Road, Open Heath, Common, or Down, or shall unlawfully and wilfully hunt, wound, kill, destroy, or steal any Red or Fallow Deer, or unlawfully rob any Warren or Place where Conies or Hares are usually kept, or shall forcibly rescue any Person being lawfully in Custody of any Officer or other person for any of the Offences before mentioned; or if any person or persons shall, by Gift or Promise of Money, or other Reward, procure any of his Majesty's Subjects to join him or them in any such unlawful act; every Person so offending being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in cases of Felony without benefit of Clergy. 9 G. 1. c. 22.

By s. 14. Offenders may be tried in any County in England, and Corruption of Blood is saved.

By s. 4, 5. Offenders not surrendering themselves after proclamation, and persons concealing Offenders after the time appointed for such Surrender, are also ousted of Clergy.

This Act is made perpetual by 31 G. 2. c. 42.

See the above Act at length under Title BLACK ACT.

Certain statutes and parts of statutes relating to Deer, viz. 5 Eliz. c. 27. s. 3,

The Statute 16 G. 3. c. 30. s. 1. imposes a pecuniary penalty on persons hunting, killing, &c. Deer in the manner, and being within the place there specified; but this section is repealed by

s. 6. of 42 G. 3. c. 107. (which see post); and by the 27th section of 16 G. 3. c. 30., so much of 13 R. 2. st. 1. c. 13. as inflicts a penalty on those who shall use Heys, Nets, or other Engines for destroying Deer, so much of 19 H. 7. c. 11. as relates to Deer, so much of 5 Eliz. c. 21. as relates to Deer, so much of 3 Jac. 1. c. 13. as relates to Deer, so much of 7 Jac. 1. c. 13. as relates to Deer, except such part thereof as repeals any part of the Statutes of 3 Jac. 1. c. 13., the Statutes 13 Car. 2. st. 1. c. 10., 3 W. & M. c. 10., 5 G. 1. c. 15., and so much of 10 G. 2. c. 32. as relates to the Second Conviction of persons for unlawfully coursing, hunting, taking in toyls, killing, wounding, or taking away any Red or Fallow Deer in any open or uninclosed Forest or Chase, or relates to beating or wounding Keepers or other Officers in Forests, Chases, or Parks, are repealed.

3 Jac. 1. c. 13.
s. 2.
7 Jac. 1. c. 13.
13 Car. 2. st. 1.
c. 10.
3 W. & M. c. 10.
5 G. 1. c. 15. and
10 G. 2. c. 32,
s. 7. and s. 9.
repealed.

It shall be lawful for any Justice of the Peace, upon complaint made to him on oath by any credible Person that there is reason to suspect any Person or Persons of having in his, her, or their custody or possession, or in any Dwelling-house, Outhouse, Yard, Garden, or Place, any Red or Fallow Deer which shall have been unlawfully killed, or the head, skin, or other part thereof, or any Slip, Noose, Toyle, Snare, or other Engine for the unlawful taking of Deer, by Warrant under his Hand and Seal, to cause such Person and Persons, and such Dwelling-house, Outhouse, Garden, or Place, to be searched; and if any Red or Fallow Deer, suspected to have been unlawfully killed, or the Head, Skin, or other part thereof, or any Slip, Noose, Toyle, Snare, or other Engine, suspected to be used for the unlawful taking or killing of Deer, shall be found in his, her, or their Custody or Possession, or in such Dwelling-house, Outhouse, Garden, or Place, to cause the same and such Person or Persons so having possession, or in whose Dwelling-house, Outhouse, Garden, or other Place the same shall be found, to be brought before any Justice of the Peace having Jurisdiction; and if such Person or Persons shall not produce before such Justice the Party of whom he, she, or they received the same, or satisfy such Justice that he, she, or they came lawfully by such Deer, or the Head, Skin, or other part thereof, or had a lawful occasion for such Slip, Noose, Toyle, Snare, or other Engine, or did not keep the same for any unlawful purpose, then every such Person shall forfeit any Sum not exceeding Thirty Pounds, nor less than Ten Pounds, at the discretion of such Justice. 16 G. 3. c. 30. s. 4.

Justice may
issue his warrant
to search houses,
&c. for venison
or engines.

Penalty on per-
sons in whose
custody any such
shall be found,
&c.

Justices may examine every person through whose hands such venison, &c. has passed.

The first receiver of such venison, &c. liable to a penalty.

Suspected persons having had venison &c. in their possession, may be proceeded against as if it was found in their possession.

Penalty on persons pulling down pales or

If any Red or Fallow Deer, suspected to have been unlawfully killed, or the Head, Skin, or other part of such Deer, shall, on a Search under a Warrant from any Justice of the Peace, be found in the Possession or Custody of any Person or Persons, or in any Dwelling-house, Outhouse, Garden, or other Place, or shall be proved to have been in the Possession, House, Outhouse, Garden, or Place of any Person or Persons who may be justly suspected to have come dishonestly or unlawfully by the same as aforesaid; and such Person or Persons so in Possession, or the Owner or Occupier of such Dwelling-house, Outhouse, Garden, or other Place, shall not, under the Provisions aforesaid, be liable to Conviction; then and in every such case, for the discovery of the Party or Parties who actually killed or stole such Deer, it shall and may be lawful to and for any Justice of the Peace having Jurisdiction, as the Evidence given and the Circumstances of the Case shall require, to summon before him, at his discretion, every Person through whose hands such Deer, or the Head, Skin, or other part thereof so found, shall appear to have passed; and if the Person and Persons from whom such Deer, or the Head, Skin, or other part thereof, shall appear to have been first received, or who, having had Possession thereof, shall not give proof to the satisfaction of such Justice, that he, she, or they came lawfully by the same, such Person or Persons shall, on every Conviction, forfeit and pay any Sum not exceeding Thirty Pounds, nor less than Ten Pounds, at the discretion of such Justice. 16 G. 3. c. 30. s. 5.

In case it shall appear, on the oath of a credible Witness, that any Person or Persons hath or have had in his, her, or their Possession, House, Outhouse, Garden, or Place, any Red or Fallow Deer, or the Skin, Head, or other part thereof, and shall be reasonably suspected to have come dishonestly or unlawfully thereby, then and in every such case, every such Person or Persons, and all other Persons through whose hands the same shall appear to have passed under the like suspicion, shall and may be proceeded against in like Manner and Form, and on Conviction shall be subject and liable to the same Penalty or Penalties, as if such Deer, or the Head, Skin, or other Part thereof, had been found in the Possession, House, Outhouse, Garden or Place of such Person or Persons, upon a Search made under and by virtue of any such Warrant as aforesaid. s. 6.

If any Person or Persons shall at any time wilfully pull down or destroy, or cause to be wilfully pulled down or destroyed, the

Pale or Pales, or any part of the Walls of any Forest, Chase, Purlieu, ancient Walk, Park, Paddock, Wood, or other Ground where any Red or Fallow Deer shall be then kept, without the consent of the Owner or Person chiefly intrusted with the Custody thereof, or being otherwise duly authorized, every Person so offending shall be subject unto the Forfeiture and Penalty hereby inflicted for the First Offence of killing of any Deer. 16 G. 3. c. 30. s. 8. (1)

walls, &c. of any forest, park, &c.

If any Person or Persons carrying any Gun or other Fire-arms, or any Sword, Staff, or other offensive Weapon, shall come into any Forest, Chase, Purlieu, or ancient Walk, or into any inclosed Park, Paddock, Wood, or into any other Ground where Deer are usually kept, be the same inclosed or not inclosed, with an intent unlawfully to shoot at, course, or hunt, or to take in any Slip, Noose, Toyle, Snare, or other Engine, or to kill, wound, destroy, or take away any Red or Fallow Deer, it shall be lawful for every Ranger or Keeper, or Person intrusted with the care of such Deer, to seize and take from such Person and Persons, in and upon such Forest, Chase, Purlieu, ancient Walk, Park, Paddock, Wood, or other Ground, to and for the Use of the Owner thereof respectively, all such Guns, Fire-arms, Slips, Nooses, Toyles, Snares, or other Engines, and all Dogs there brought for coursing Deer, in the same and like manner as the Gamekeepers of Manors are empowered by Law within their respective Manors to seize and take Dogs, Nets, or other Engines, in the custody of Persons not qualified by the Laws to keep the same; and if any such Person or Persons shall there unlawfully beat or wound any Ranger or Keeper, or his or their Servants or Assistants, in the Execution of his or their Office or Offices, or shall attempt to rescue any Person in the lawful custody of any such Ranger, Keeper, Servant, or Assistant, every Person so offending shall be deemed and adjudged to be guilty of Felony, and on being lawfully convicted on Indictment, shall be transported to one of his Majesty's Plantations in America for the Space of Seven Years. s. 9.

Persons carrying fire-arms, &c. coming into any forest, park, &c. with intent to destroy deer;

See post, stat. 57 Geo. 3. c. 90. s. 3.

and beating the keepers, &c.

shall be guilty of felony.

Upon complaint or information upon oath, of any one or more credible witness or witnesses, before any one Justice of the Peace having jurisdiction, of any offence committed against this

How Justices to proceed on information of offences.

(1) £30, and double if the offender be a Keeper of or Person in any manner intrusted with the custody or care of Deer in the Forest, Chase, Purlieu, ancient Walk, or inclosed Park, Paddock, or Wood, or other inclosed place where such offence shall be committed. See s. 1. of the Act.

Act, it shall and may be lawful to and for such Justice (except in such cases only where the Justice is specially directed previously to summon the party before him) to cause the person or persons, who shall be charged by such complaint or information, to be apprehended by warrant under the hand and seal of such Justice, and to be brought before him at such time and place as shall be specified in and by such warrant, and thereupon such Justice shall and may proceed to hear the matter of such complaint or information, and to adjudge and determine the same; and in such case where it is provided by this Act that the party complained of shall be summoned to appear, if the party so summoned shall not appear according to such summons, then, upon due proof made of the service of such summons, either personally, or by leaving the same at his dwelling-house, lodgings, or other usual place of abode, it shall be lawful for the Justice, before whom the party was so summoned to appear, to apprehend such party by warrant, and to proceed as if no previous summons had been directed by this Act. 16 G. 3. c. 30. s. 10.

Recovery and application of penalties.

All the pecuniary penalties of this Act shall be recoverable before one or more Justice or Justices of the Peace for the county or other division in which the offence shall be committed, on proof of the offence by the oath of one or more credible witness or witnesses, or on confession of the offender; and one moiety of each penalty shall belong to the King's Majesty, his heirs and successors, and be paid, for his and their use, into the hands of such person or persons as the said Justice or Justices shall direct, and the other moiety thereof shall belong and be paid to the informer or informers prosecuting for the same; and in case of non-payment thereof, with the charges incident to the conviction, immediately upon the conviction, the said penalty or penalties, and the charges incident, shall be levied by distress and sale of the goods and chattels of every such offender, by warrant under the hand and seal or hands and seals of the Justice or Justices before whom such conviction shall be made; and for want of sufficient distress, the offender or offenders, except in such cases only where it is otherwise provided by this Act, shall be sent by the said Justice or Justices to the common gaol of the county or place where the offence shall be committed for the space of one whole year, without bail or mainprize, unless the said penalty, and charges incident, shall be sooner paid. s. 11.

If not paid on conviction, may be levied by distress.

Justices may order offenders into custody, till the return of the distress warrant.

And, to the end that persons convicted of any of the offences for which pecuniary penalties are inflicted by this Act, may not, by flight or removal after conviction, evade imprison-

ment where such penalties shall not be paid on conviction, and sufficient distress cannot be found for raising such penalties, be it further enacted, that it shall and may be lawful for the Justice or Justices of the Peace, before whom any offender shall be convicted of having incurred any pecuniary penalty of this Act, immediately after such conviction, to order him or her into custody, in case he or she shall not immediately pay the penalty due on such conviction, during such time, not exceeding three days, as such Justice or Justices shall think proper to allow for return of the warrant for raising the penalty by distress and sale as aforesaid. 16 G. 3. c. 30. s. 12.

Provided always, that if it shall appear to the satisfaction of such Justice or Justices, either by the confession of the party convicted or otherwise, that such party hath not goods or chattels sufficient whereon to levy the penalty or penalties so due, then and in such case the said Justice or Justices shall and may, without issuing any warrant of distress, proceed to commit the party so convicted, as if a warrant of distress had been issued, and a *nulla bona* returned thereon. s. 13.

If party have no goods, he may be committed forthwith.

Provided also, that if any person, committed for any first offence against this Act shall, before his commitment to prison, procure security to be given by two sufficient sureties, to the satisfaction of the Justice or Justices before whom he shall be so convicted, for payment of the penalty or penalties incurred, with the charges incident, within six days, inclusive of the day of conviction, then and in such case it shall be lawful for such Justice or Justices to accept such security, and upon non-payment thereof at the time to be stipulated for that purpose, to cause the party convicted, and his said sureties, to be apprehended by warrant under his or their hand and seal, or hands and seals, and then to commit to the common gaol of the county or place where the offence was committed, for such space of time as the party convicted was subject and liable to have been imprisoned in case no such security had been given, unless the penalty or charges shall be sooner paid. s. 14.

Parties may give security for payment of penalties within six days.

It shall and may be lawful for any Keeper or Underkeeper of any Forest, Chace, Purlieu, ancient Walk, Paddock, Park, or other ground inclosed, where Deer are, have been, or shall be usually kept, and their servants or assistants, to seize and apprehend, upon the spot, any person or persons whom they shall discover in the actual fact of hunting, coursing, killing, wounding, shooting at, taking, destroying, or carrying away any red or fallow Deer from any such Forest, Chace, Purlieu, or ancient

Keeper of any forest, park, &c. may apprehend persons hunting, &c. of deer, or laying any net, &c. therein.

See post, stat. 57 G. 3. c. 90 s. 2.

Walk, whether inclosed or not, or in any inclosed Park, Paddock, Wood, or in any other inclosed ground, or attempting so to do, or in setting or laying any Net, Wire, Slip, Noose, Toyle, Snare, or other Engine therein, for the taking, killing, or destroying of Deer therein, and to carry such offender or offenders before some neighbouring Justice of the Peace having Jurisdiction, to be dealt with according to Law. 16 G.3. c.30. s.15.

Offenders may be discharged upon consent of the prosecutor and owner of the forest, park, &c

In case any offender, for his first offence against this Act shall, for want of a sufficient distress, be committed to gaol, and shall, whilst in gaol, obtain the consent in writing of the prosecutor, and also of the Owner, Ranger, Forester, Keeper, or other person chiefly intrusted with the care of the Deer in the Forest, Chace, Purlieu, ancient Walk, Park, Paddock, or Place, wherein the offence was committed, for his enlargement; that then, and in every such case, it shall and may be lawful to and for the Justices of the Peace having jurisdiction, at their Quarter or General Sessions, to cause such offender to be brought before them, and thereupon by their order to direct the keeper of such gaol to set such offender at liberty; and the said Keeper is hereby directed to obey such order accordingly, any thing hereinbefore contained to the contrary notwithstanding. s. 16.

Offenders making discovery, &c. not liable to penalties.

And, for the better discovery of offenders against this Act, be it further enacted, that any person who shall offend against this Act, and shall make discovery of any other person or persons who hath or have offended against the same, so as he, she, or they be duly convicted of such offence according to this Act; then and in such case such discoverer shall be discharged of all the forfeitures and penalties of this Act, by him, her, or them incurred previous to such discovery. s. 17.

Convictions shall be certified to the Sessions.

And, in order to prevent the quashing of convictions of offenders against this Act for want of form, be it further enacted, that the conviction and convictions of all and every offenders against this Act shall be certified by the Justice or Justices of the Peace before whom the same shall be made, to the next General Quarter Sessions of the Peace, to be filed amongst the records of the said Sessions; and that such conviction shall be fairly written on parchment or paper in the following form of words, as the case shall happen, or in any other form of words to the like effect; that is to say, (to wit,)

Form of conviction.

BE it remembered, that on the _____ day of _____ in the year

A. B. was, upon the complaint of *C. D.*, convicted before

Given under hand and seal, the day and year above
written.

No Certiorari shall be allowed to remove any Conviction made, or other Proceedings of, for, or concerning any matter or thing in this act, unless the party or parties convicted shall, before the allowance of such Certiorari, become bound to the person or persons prosecuting in the Sum of One hundred Pounds, with sufficient Sureties as the Justice or Justices of the Peace before whom the Offender was convicted, with condition to pay unto the said Prosecutors, within Thirty Days after such Conviction confirmed, on a Procedendo granted, their full Costs and Damages, to be ascertained upon their Oaths; and shall become also bound to the Justice or Justices of the Peace before whom such Conviction was made, with such sufficient Sureties as such Justice or Justices shall approve of, in the Penalty of Sixty Pounds for each Offence, with condition to prosecute such Writ of Certiorari with effect, and to pay such Justice or Justices the Forfeitures due by such Conviction, to be distributed as by this Act is directed, or to render the person or persons convicted to such Justice or Justices within Thirty Days next after such Conviction shall be confirmed, or a Procedendo granted; and that in default thereof it shall be lawful to proceed to the levying of the Penalty mentioned in such Conviction, in such manner as if no such Certiorari had been awarded. s. 19.

After the confirmation of any Conviction or Convictions upon this Act, by any of the superior Courts at Westminster, and delivering the Rule to the said Justice or Justices, whereby such Conviction or Convictions hath or have been so confirmed, it shall and may be lawful for such Justice or Justices to proceed against the party or parties convicted, in the same manner as if a Procedendo had been granted. s. 20.

Provided always, that if any person or persons shall think him, her, or themselves aggrieved by the Judgment or Determination of any Justice or Justices of the Peace, upon Conviction of or for any of the Offences in this Act, and shall not have sought his remedy by removing the matter by Certiorari as

aforesaid, such person or persons may appeal from the Judgment of the said Justice or Justices, to the General or Quarter Sessions of the Peace, to be held for the said County, Division, or Place where such person or persons was or were convicted, next after the expiration of twenty days from the time of such Conviction; but the person or persons so appealing shall, and he, she, and they are hereby required and directed to give at least six days notice in writing to the Prosecutor or Prosecutors of such person or persons as shall so appeal, of such his, her, or their intention of bringing and prosecuting such Appeal, and of the matter thereof, and shall enter into Recognizance before some Justice or Justices of the Peace for the County, Division, or place wherein the Conviction or Judgment was made or given, with Two sufficient Sureties, to be approved by the said Justice or Justices, on Conviction to appear and try such Appeal at the General or Quarter Session which shall be held in and for the County, Division, or place wherein such Conviction or Judgment was made or given, next and immediately after the expiration of ten days from the time of such Conviction, and to abide by the Order or Determination of such Court, and for payment of such Cost and Charges as shall be awarded at the said Court; and every such Appeal and Appeals shall, by the Court at the said General or Quarter Sessions, to which such Appeal or Appeals is or are made, be then examined, and the Facts and Circumstances of the Case fully inquired into, and the matter then finally heard and determined; and in case such Judgment, Determination, or Conviction as aforesaid shall be then and there affirmed, the Party appealing shall pay unto the Prosecutor or Prosecutors his, her, or their full Costs, to be ascertained by Order of the said Court of General or Quarter Sessions. 16 G. 3. c. 30. s. 21.

whose determination shall be final.

Persons having paid the penalty, or being imprisoned, may appeal, &c.

Provided also, that in case any person or persons, thinking him, her, or themselves aggrieved as aforesaid, shall have paid the Penalty inflicted by this Act for the Offence of which he, she, or they shall have been convicted, or shall be then imprisoned; every such person or persons, having so paid, or being so imprisoned, may appeal to such Judgment, Order, Determination, or Conviction as aforesaid, on entering into Recognizance by himself, herself, or themselves only, and without any Surety or Sureties, conditioned as before mentioned, the said Penalty remaining in the hands of such Justice or Justices, or such person or persons continuing in prison in the meantime, and until the merits of the said Appeal shall be heard and finally determined. s. 22.

Provided also, that no such Conviction made or Judgment given as aforesaid, shall be set aside by the said Court or General or Quarter Sessions, for want of form, or for want of stating, or through the mistating of any facts, circumstances, or matter whatsoever, in case the facts alledged in the said Conviction, or on which the same shall be grounded, shall be proved to the Satisfaction of the said Court; but such Appeal and Appeals shall be decided on the merits of the case only; nor shall such Conviction or Judgment be removed or removable by Certiorari, or any other Writ or Process whatsoever, into any of his Majesty's Courts of Record at Westminster; any Law or Statute to the contrary notwithstanding. 16 G. 3. c. 30. s. 23.

Proceedings not to be quashed for want of form, &c.

Provided also, that if any person or persons shall be sued or prosecuted for any matter or thing which he or they shall do in pursuance of this Act, it shall and may be lawful to and for the person or persons so sued or prosecuted to plead the General Issue, and give the special matter in evidence; and if a Verdict shall pass for the Defendant, or the Plaintiff shall become nonsuit, or suffer a discontinuance, or if upon a Demurrer Judgment shall be given against the Plaintiff, the Defendant shall have and recover his Treble Costs, and have the like remedy for the same as any Defendant hath in any other case by Law. s. 24.

Defendants may plead the general issue.

Treble costs.

Every prosecution for any Offence against this Act shall be commenced within twelve calendar months, but not after, from the time of the Offence committed; and that such persons as shall be prosecuted under this Act for any of the Offences aforesaid, shall not be liable to prosecution for the same Offences under any other Act of Parliament, or in any Court of Attachment, Swainmote, Eyre, or any Forest Court. s. 25.

Prosecutions under this act to be commenced within twelve months, &c.

All Actions, Writs, and Prosecutions to be commenced against any person or persons for any thing to be done under or in pursuance of this Act, shall be laid and tried in the County or place where the fact was committed, and shall be commenced within six calendar months after the fact committed, and not otherwise. s. 26.

Limitation of actions.

By s. 28. nothing contained in this Act shall extend to that part of Great Britain called Scotland.

The Statute 42 G. 3. c. 107. intituled "An Act more effectually to prevent the stealing of Deer," recites that "whereas it is expedient to make some further Provision for preventing the stealing of Deer and the punishment of Deer Stealers," and then enacts, that, from and after the passing of this Act, if any Person

Persons who shall hunt, or take in any snare, or shoot at, &c. or carry away any deer in any inclosed ground, without consent of the owner, shall, on conviction, be transported for seven years;

and persons committing such offences in uninclosed ground, shall forfeit £50.

Keepers so offending, shall forfeit double the penalty.

Provisions of 16 G. 3. c. 30. extended to this act.

or Persons shall wilfully course or hunt, or take in any Slip, Noose, Toil, or Snare, or kill, wound, or destroy, or shoot at or otherwise attempt to kill, wound, or destroy, or shall carry away, any Red or Fallow Deer, kept or being in the inclosed Part of any Forest, Chace, Purlieu, or ancient Walk, or any inclosed Park, Paddock, Wood, or other inclosed Ground wherein Deer are, have been, or shall be usually kept, without the Consent of the Owner of such Deer, or without being otherwise duly authorized, or shall knowingly be aiding, abetting, or assisting therein or thereunto, every Person so wilfully offending as aforesaid, in any of the Cases above mentioned, shall be deemed and taken to be guilty of Felony, and being lawfully convicted thereof upon Indictment, shall be adjudged to be transported for the term of Seven Years.

From and after the passing of this Act, if any Person shall wilfully course or hunt, or take in any Slip, Noose, Toil, or Snare, or kill, wound, or destroy, or shoot at or otherwise attempt to kill, wound, or destroy, or shall carry away, any Red or Fallow Deer, kept or being in the uninclosed part of any Forest, Chace, Purlieu, or ancient Walk, without the consent of the Owner of such Deer, or without being otherwise duly authorized, or shall knowingly be aiding, abetting, or assisting therein or thereunto; every Person so offending shall, for every such Act of wilful coursing or hunting, and for every such attempt to kill, wound, or destroy, and for every Deer so taken or killed, wounded or destroyed, or shot at or carried away as aforesaid, in or from any uninclosed part of any Forest, Chase, Purlieu, or ancient Walk, forfeit and pay the Sum of Fifty Pounds; and if the Offender in any of the Cases aforesaid shall be a Keeper of or Person in any manner entrusted with the Care or Custody of Deer in the Forest, Chase, Purlieu, or ancient Walk, wherein the Offence shall be committed, he shall for every such Offence forfeit and pay double the Penalty hereinbefore enacted to be paid by other Offenders. s. 2.

All Powers, Provisions, Rules, Regulations, Methods, Forms, Restrictions, and all other Matters and Things enacted, prescribed, appointed, or contained in and by an Act [16 G. 3. c. 30.] for or concerning the seizing and apprehending and the Conviction of Persons offending against the said Act, and for or concerning the Recovery, Application, and Disposal of the Penalties and Forfeitures therein mentioned, and for or concerning the time and manner of appealing from Convictions, and of bringing Actions or Prosecutions against any Person or

Persons for any thing done under or in pursuance of the said Act, and for or concerning the manner of pleading and other Proceedings in such Actions, and the Costs by the said Act given in certain Cases, shall, so far as the same respectively are applicable, be in full force and effect, and be applied and made use of in seizing and apprehending and in convicting Offenders against this Act, and in the Recovery, Application, and Disposal of the Penalties and Forfeitures hereby imposed, and with respect to the time and manner of appealing from Convictions, and of bringing Actions and Prosecutions against any person for any thing done under or in pursuance of this Act, and with respect to the manner of pleading and other Proceedings in such Actions, and the Costs thereof, and for all other purposes to which such Powers, Provisions, Rules, Regulations, Methods, Forms, Restrictions, Matters and Things, or any of them, are applicable under this Act, as fully as if the same had been severally herein contained and set forth: Provided always, that in case of Non-payment of any pecuniary Penalty or Forfeiture imposed by this Act, with the Charges incident to the Conviction, immediately on the Conviction, and for want of sufficient Distress of the Goods and Chattels of the Offender or Offenders, he and they shall be sent, by the Justice or Justices before whom such Conviction shall be made, to the Common Gaol of the County, Riding or Division, City, Town or Place, where the Offence was committed, for Six Months, there to remain without Bail or Mainprize, unless the Penalty and Charges incident be sooner paid. 42 G. 3. c. 107. s. 3.

In default of payment of penalties, offenders may be committed for six months.

If any person or persons after having been duly convicted of any Offence for which a pecuniary Penalty or Forfeiture is imposed either by this Act or by the said Act, [16 G. 3. c. 80.] shall offend a Second Time, by committing any Offence against this Act for which a pecuniary Penalty or Forfeiture is hereinbefore imposed, such Second Offence, whether it be the same Offence as the First Offence, or be any other of the said Offences, shall be deemed and taken to be a Felon, and the Person or Persons guilty thereof, being lawfully convicted upon Indictment, shall be adjudged to be transported for the term of Seven Years. s. 4.

Persons convicted on a second offence, for which a pecuniary penalty is imposed, declared guilty of felony, and shall be transported for seven years.

And, to the intent that the Prosecution of persons who shall offend a Second Time, may be carried on with as little expence and trouble as may be, be it further enacted, That the Justice before whom any person shall be convicted, for the First Time, of any Offence against this Act for which a pecu-

Convictions of the first offence shall be transmitted to the Quarter Sessions, there to be filed.

niary Penalty or Forfeiture is imposed, shall transmit such Conviction under his Hand and Seal to the Quarter Session which next after such Conviction shall be holden for the County, Riding or Division, City, Town or Place, wherein such First Offence was committed, there to be filed by the Clerk of the Peace or other proper Officer, and kept amongst the Records of the Court; and such Conviction so filed, or a true Copy thereof, certified by such Clerk of the Peace or other Officer, or proved to be a true Copy, shall be sufficient Evidence to prove the Conviction for such First Offence as aforesaid. 42 G. 3. c. 107. s. 5.

So much of
16 G. 3. c. 30.
as inflicts penal-
ties for hunting
or shooting deer,
&c. repealed.

From and after the passing of this Act, so much [s. 1.] of the said Act [16 G. 3. c. 30.] as imposes or inflicts any Penalty, Forfeiture, or Punishment on any person who shall hunt or course, or take in any Slip, Noose, Toil, or Snare, or kill, wound, or destroy, or shoot at or otherwise attempt to kill, wound, or destroy, or carry away, any Fallow Deer in any Forest, Chase, Purlieu, or ancient Walk, whether inclosed or not, or in any inclosed Park, Paddock, Wood, or other inclosed Ground, where Deer were or had been or should be usually kept, without the Consent of the Owner, or without being otherwise duly authorized, or who shall be aiding, abetting, or assisting therein, shall, with respect to the said Offences committed after the passing of this Act, be and the same is hereby repealed. s. 6.

Not to extend to
Scotland or
Ireland.

Provided always, that nothing herein contained shall extend to those parts of the United Kingdom called Scotland and Ireland. s. 7.

§ 2.

See ante, stat.
16 G. 3. c. 30.
s. 7.

The Statute 57 G. 3. c. 90., intituled "An act for the prevention of persons going armed by night for the destruction of Game; and for repealing an act, made in the last session of Parliament, relating to rogues and vagabonds," recites, that "whereas idle and disorderly persons frequently go armed in the night-time for the purpose of protecting themselves, and aiding and abetting and assisting each other in the illegal destruction of Game or Rabbits; and whereas such practices are found by experience to lead to the commission of Felonies and Murders:" and then, for more effectual suppression thereof, it is enacted, that if any person or persons, having entered into any Forest, Chase, Park, Wood, Plantation, Close, or other open or inclosed Ground, with the intent illegally to destroy, take, or kill Game or Rabbits, or with the intent to aid, abet, and assist any person or persons illegally to destroy, take, or kill Game or Rabbits, shall be found at night, that is to say, between the hours of six in the evening and seven in the morning from the

Persons found in
the night within,
any forest, wood,
close, &c. armed
with any gun, &c.
bludgeon, or
other offensive
weapon, with
intent to destroy,
take, or kill
game or rabbits,
guilty of a
misdemeanor;

first day of October to the first day of February, between seven in the evening and five in the morning from the first day of February to the first day of April, and between nine in the evening and four in the morning for the remainder of the year, armed with any Gun, Cross-bow, Fire Arms, Bludgeon, or any other offensive weapon, every such person so offending, being thereof lawfully convicted, shall be adjudged guilty of a Misdemeanor, and shall be sentenced to transportation for Seven Years, or shall receive such other punishment as may by law be inflicted on persons guilty of Misdemeanor, and as the Court before which such offenders may be tried and convicted shall adjudge; and if any such offender or offenders shall return into Great Britain before the expiration of the term for which he or they shall be so transported, contrary to the intent and meaning hereof, he or they so returning, and being thereof duly convicted, shall be adjudged guilty of Felony, and shall be sentenced to transportation for the term or terms of his or their natural life or lives.

and may be transported for seven years.

Such offenders returning shall be transported for life.

And for the more easy and speedy bringing the offenders against this Act to justice, be it further enacted, that it shall and may be lawful to and for the Ranger and Rangers, and to and for the owner and owners, occupier and occupiers of any such Forest, Chace, Park, Wood, Plantation, Close, or other open or inclosed Ground, and also for his, her, or their Keeper and Keepers, Servant and Servants, and also for any other person or persons, to seize and apprehend or to assist in seizing and apprehending such offender or offenders by virtue of this Act, and by the authority of the same to convey and deliver such offender or offenders into the custody of a Peace Officer, who is hereby authorized and directed to convey such offender or offenders before some one of his Majesty's Justices of the Peace for the county or place where such offence shall be alleged to have been committed; or in case such offender or offenders shall not be so apprehended, then it shall and may be lawful for any such Justice, on information before him on the oath of any credible witness or witnesses, to issue his warrant for the apprehension of such offender or offenders; and if upon the apprehension of any such offender or offenders it shall appear to such Justice, on the oath of any credible witness or witnesses, that the person or persons so charged hath or have been guilty of the crime of being found armed at night as aforesaid, it shall and may be lawful for such Justice to admit such person or persons so charged to bail, and in default of bail to commit

Any person may apprehend such offenders;

or one Justice may issue his warrant to apprehend them.

Offenders may be bailed.

such person or persons to the County Gaol until the next General Quarter Sessions of the Peace, or the next General Commission of Gaol Delivery, to be holden for the same County or place, there to be tried and dealt with as by this Act is directed; and if in Scotland, until such person or persons so charged shall be dealt with as any person or persons charged with a transportable offence may be dealt with according to the law and practice of Scotland. 57 G. 3. c. 90. s. 2.

Persons found in any forest, &c. at night with any engine, &c. for destroying game, may be apprehended by any person and taken before a Justice.

If any person or persons shall after the passing of this Act, unlawfully enter into or be found in any Forest, Chase, Park, Wood, Plantation, Close, or other open or inclosed Ground, at night, according to the provisions of this Act with respect to what shall be deemed night for the purposes hereof, having any Net, Engine, or other instrument, for the purpose and with the intent to destroy, take, or kill, or shall wilfully destroy, take, or kill Game, it shall and may be lawful to and for the Ranger and Rangers, and to and for the owner and owners, occupier and occupiers of any such Forest, Chase, Park, Wood, Plantation, Close, or other open or inclosed Ground, and also for his, her, or their Keeper and Keepers, Servant and Servants, and also for any other person or persons, to seize and apprehend or to assist in seizing and apprehending such offender or offenders by virtue of this Act, and by the authority of the same to convey and deliver such offender or offenders into the custody of a Peace Officer, who is hereby authorized and directed to convey such offender or offenders before some one of his Majesty's Justices of the Peace for the county or place where such offence shall be alleged to have been committed, to be dealt with according to law. s. 3.

By s. 4. the Statute 56 G. 3. c. 130. is repealed; and by s. 5. the statute 39, 40 G. 3. c. 50. is likewise repealed.

Gaming.

To prevent deceit and cousenage in gaming
Vin. v. 14. p. 4.
Cowp. 282.

If any person or persons shall, by any fraud, shift, cousenage, circumvention, deceit, or unlawful device or ill practice whatsoever, in play at or with Cards, Dice, Tables, Tennis, Bowls, Kittles, Shovel Board; or in or by Cock Fightings, Horse Races, Dog Matches, Foot Races, or other Pastimes, Game or Games whatsoever, or in or by bearing a share or part in the Stakes, Wagers, or Adventures, or in or by betting on the sides or hands of such as do or shall play, act, ride or run as aforesaid, win, obtain, or acquire to him or themselves, or to any other, any Sum

of Money or other valuable thing whatsoever; every person so offending shall *ipso facto* forfeit and lose Treble the Sum or Value of Money or other thing or things so won, gained, obtained, or acquired, one half to the King, and the other half to the party grieved, or who shall lose the Money, &c., so as every such loser and person grieved sue for the same within six calendar months after such play; and in default of such prosecution, the same other half to such person as prosecutes for the same within one year after the said six months expired; such forfeitures to be sued for by Action of Debt, &c. in the Courts at Westminster, and the Plaintiffs or Informers to have their Treble Costs against the party offending. 16 Car. 2. c. 7. s. 2. The penalty.

Persons who shall play at any such Games or any other Pastime or Game (other than with and for Ready Money), or betting on the sides or hands of others so playing, and losing Money or any other thing exceeding the Sum of One hundred Pounds at one time or meeting, upon ticket or credit or otherwise, and not paying down the same at the time of losing, the party so losing the Money or other thing above One hundred Pounds shall not be compellable to pay or make good the same, but the Contract shall be void, and all Securities given for satisfaction of the same; and the person winning the Money or other things shall forfeit Treble the Value of the Money, &c. so won above One hundred Pounds, one moiety to the King and the other to the party suing for the same within one year, by Action of Debt in the Courts at Westminster, and the Plaintiff shall have Treble Costs. s. 3.

If any person or persons whatsoever, at any time or times after 1st May 1711, do or shall by any fraud or shift, cousenage, circumvention, deceit, or unlawful device or ill practice whatsoever, in playing at or with Cards, Dice, or any the Games aforesaid (1), or in or by bearing a share or part in the Stakes, Wagers, or Adventures, or in or by betting on the sides or hands of such as do or shall play as aforesaid, win, obtain, or acquire to him or themselves, or to any other or others, any Sum or Sums of Money, or other valuable thing or things whatsoever, or shall at any one time or sitting win of any one or more person or persons whatsoever above the Sum or Value of Ten Pounds; that then every person or persons so winning by such ill practice as aforesaid, or winning at any one time or sitting above the said Sum or Value of Ten Pounds, and being convicted

Money, &c.
above £100 won
at one time at
gaming, shall not
be recoverable.

1 Vent. 253.

1 Lutw. 180.

2 Mod. 54.

1 Salk. 344.

2 Lev. 94.

4 Mod. 409.

Penalty on the
party winning.

Dougl. 714, 715.

Persons winning
by fraud any
money, &c. or
winning the sum
of £10 at one
sitting, and con-
victed thereof by
indictment, &c.
shall forfeit five
times the value,
and in case of
fraud, be render-
ed infamous, and
be punished as in
case of perjury.

(1) Cards, Dice, Tables, Tennis, Bowls, or other Game or Games whatsoever. See s. 1, 2. of the Act.

of any of the said Offences upon an Indictment or Information to be exhibited against him or them for that purpose, shall forfeit Five Times the Value of the Sum or Sums of Money or other thing so won as aforesaid; and in case of such ill practice as aforesaid, shall be deemed infamous, and suffer such Corporal Punishment as in cases of wilful Perjury; and such Penalty to be recovered by such person or persons as shall sue for the same by such Action as aforesaid (1). 9 Ann. c. 14. s. 5.

Persons losing
£10 at one time,
or £20 in 24
hours, may be
indicted;

and fined five
times the value.

If any Person shall win or lose at play, or by betting, at any one time the Sum or Value of Ten Pounds, or within the space of twenty-four hours the Sum or Value of Twenty Pounds, such Person shall be liable to be indicted for such offence within Six Months after it is committed, either before His Majesty's Justices of the King's Bench, Assize, Gaol Delivery, or Grand Sessions, and being thereof legally convicted, shall be fined five times the value of the sum so won or lost; which fine (after such charges as the Court shall judge reasonable, allowed to the Prosecutors and Evidence out of the same,) shall go to the Poor of the Parish or Place where such Offence shall be committed. 18 Geo. 2. c. 34. s. 8.

Games or Lot-
teries called
Little Goes,
declared public
nuisances.

Persons keeping
any office or
place for any
Game or Lottery
not authorized by
Law, &c. shall
forfeit £500, and
be deemed
rogues and vaga-
bonds under
17 G. 2. c. 5.

The Statute 42. G. 3. c. 119. "to suppress certain Games and Lotteries not authorized by Law," enacts, (by s. 1.) that all Games or Lotteries, called *Little Goes*, shall, from and after the passing of this Act, be deemed and are hereby declared common and public Nuisances, and against Law. And by s. 2, that no Person shall publicly or privately keep any Office or Place to exercise, keep open, shew, or expose to be played, drawn, or thrown at or in, either by Dice, Lots, Cards, Balls, or by Numbers or Figures, or by any other Way, Contrivance, or Device whatsoever, any Game or Lottery called a *Little Goe*, or any other Lottery whatsoever not authorized by Parliament, or shall knowingly suffer to be exercised, kept open, shown, or exposed to be played, drawn, or thrown at or in, either by Dice, Lots, Cards, Balls, or by Numbers or Figures, or by any other Way, Contrivance, or Device whatsoever, any such Game or Lottery, in his or her House, Room, or Place, upon pain of forfeiting for every such Offence the Sum of Five hundred Pounds, to be recovered in the Court of Exchequer, at the Suit of His Majesty's Attorney General, and to be to the Use of His Majesty,

(1) Qui tam Action of Debt founded on the Act in any Court of Record. See s. 2. of the Act.

His Heirs and Successors; and every Person so offending shall be deemed a Rogue and Vagabond within the true Intent and Meaning of the Statute 17 G. 2. c. 5., and shall be punishable as such Rogue and Vagabond accordingly.

By s. 3. Persons so offending, against whom no such Information shall have been made, shall be punished as Rogues and Vagabonds according to 17 Geo. 2. c. 5. and 27 G. 3. c. 1.

Upon Complaint or Information made upon Oath before any Justice of the Peace, of any Offence committed against this Act in any House or Place within the Jurisdiction of any such Justice or Justices, whereby any of the Offenders may be liable to Punishment as Rogues and Vagabonds, it shall be lawful to and for the said Justice, if he or they shall judge it reasonable, by Special Warrant under his Hand and Seal, to authorise any Person, by Day or by Night (but if in the Night-time, then in the presence of a Constable or other lawful Officer of the Peace, who are hereby required to be aiding or assisting therein), to break open the Doors or any Part of such House or Place where such Offence shall have been committed, and to enter into such House or Place, and to seize and apprehend all such Offenders, and all other Persons who shall be discovered in such House or Place, and who shall have knowingly aided or assisted, or been anyways concerned with any such Offender or Offenders in committing such Offence, and to convey them before any Justice of the County, Riding, Division, City, Liberty, or Place wherein such Person shall be so apprehended, to be dealt with according to Law as aforesaid; and all Persons who shall be discovered in such House or Place knowingly aiding, assisting, or anyways concerned with such Offender in the carrying on any Transactions respecting the said Little Goes or Lotteries, or either of them, shall be deemed Rogues and Vagabonds, and punishable in like Manner as is directed by the said recited Act of 17 Geo. 2.; and it shall be lawful for the Officer or Officers having the Execution of such Warrant, and all other Persons acting in his or their Aid or Assistance, to stop, arrest, and detain all and every the Person and Persons so discovered in such House or Place, and to convey the said Person and Persons before such Justice or Justices of the Peace as aforesaid; and if any Person or Persons shall forcibly obstruct, oppose, molest, or hinder any such Officer or Officers, or others acting in his or their Aid or Assistance, in the due Execution of their Duty, or in the due entering into such House or Place, or in the seizing, detaining, or conveying before such Justice or Justices any such Offenders,

Justices, on information, may authorize persons to break open the doors of places where such offences shall have been committed, and apprehend offenders and others assisting them, and carry them before a Justice.

Persons obstructing, &c. officers or others in the execution of such warrant, shall be deemed offenders against Law and the public peace, and may be fined, imprisoned, &c.

or other Persons as aforesaid, every such Person so obstructing, opposing, molesting, or hindering as aforesaid, shall be deemed an Offender against Law and the public Peace, and the Court before whom any such Offender shall be tried and convicted shall and may order such Offender to be fined, imprisoned, and publicly whipped, as in their Discretion shall be thought fit. The Act 46 Geo. 3. c. 148. for raising a sum of Money by Lotteries, contains, (s. 58.) a clause precisely similar to the above.

Gaol and Gaoler.

Justices of Assise, &c. shall inquire of Gaolers who compel prisoners to become appealers.

Item, to eschew the Damage and Destruction that often doth happen by Sheriffs, Gaolers, and Keepers of Prisons, within Franchise and without, which have pained their Prisoners, and by such evil Means compel and procure them to become Appealers, and to appeal harmless and guiltless People, to the intent to have Ransom of such appealed Persons, for fear of Imprisonment or other Cause; the Justices of the one Bench and of the other, and Justices of Assise and Gaol Delivery, shall by force of this Statute inquire of such Compulsions, Punishments, and Procurements, and hear the Complaints of all them that will complain in such cases by Bill; and shall hear and determine such Plaints as well at the suit of the Party as at the King's suit. 1 Ed. 3. st. 1. c. 7. and see post, 14 Ed. 3. st. 1. c. 10.

4 Co. 34.
3 Inst. 91.
The Sheriffs shall have the custody of the Gaols, and put in such keepers as they will answer for.
The punishment of Gaolers compelling prisoners to become appealers.

Item, in the right of the Gaols which were wont to be in ward of the Sheriffs, and annexed to their Bailiwicks, it is assented and accorded, that they shall be rejoined to the Sheriffs, and the Sheriffs shall have the Custody of the same Gaols as before this time they were wont to have; and that they shall put in such Keepers for whom they will answer; and if it happen that the Keeper of the Prison, or Under Keeper, by too great duress of Imprisonment and by pain, make any Prisoner that he hath in his ward to become an appellor against his will, and thereof be attainted, he shall have judgment of life and of member; and that the King's Justices before whom such cases shall happen, shall enquire the truth thereof; and if they find by inquest thereupon taken, that any Keeper or Under Keeper hath done the same, he shall be thereof arraigned, and if he be found guilty, he shall have judgment of life and member as afore is said. 14 Ed. 3. st. 1. c. 10.

Item, whereas in times past, Sheriffs and Gaolers of Gaols would not receive Thieves, Persons appealed, indicted, or found with the maner, taken and attached by the Constables and

Townships, without taking great Fines and Ransoms of them for their Receit, whereby the said Constables and Townships have been unwilling to take Thieves and Felons, because of such extream charges, and the Thieves and the Felons the more encouraged to offend. It is enacted, that the Sheriffs and Gaolers shall receive and safely keep in Prison from henceforth, such Thieves and Felons by the delivery of the Constables and Townships, without taking any thing for the receit. And the Justices assigned to deliver the Gaol, shall have power to hear their Complaints, that will complain upon the Sheriffs and Gaolers in such case, and moreover to punish the Sheriffs and Gaolers, if they be found guilty. 4 Ed. 3. c. 10.

Sheriffs and Gaolers shall receive and safely keep felons, without taking any fee therefore.

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Grants.

Persons not compellable to plead certain grants to the Coroner's Inquisition, nor to inroll more thereof than expresses such grant.

Corporations, Lords of Manors, or other Persons having Grants inrolled, shall not be compelled to plead the same to any Inquisition returned by any Coroner. And such Corporations, Lord of a Manor, or other Person having Charters or Grants for Felons goods, Deodands and other Forfeitures, shall not be compelled to enroll their whole Charter or Grant, but only so much as may express the Grants of such Felons goods, Deodands and Forfeitures, and no more; and after such Inrollment, no Corporation, Lord of Manor, or other Person, shall be compelled to plead the same in K. B. to any Inquisition filed therein touching any goods found thereby. 4, 5 W. & M. c. 22.

Penalty on Clerk of the Crown acting contrary hereto.

Clerk of the Crown issuing process against any Corporation, Lord of a Manor, or other Person, being such grantees, after such inrollment, shall for every such offence forfeit £5, to be recovered by Bill, &c.

Clerk of the Crown not to incur the Penalty for issuing process against Persons purchasing such Grants and not inrolling the same, or devisees thereof not inrolling the same, or Heirs not inrolling such title to said Grants. s. 3.

Habeas Corpus Act.

Writs of Habeas Corpus shall be returned and the body brought within a certain number of days, according to the distance.

Whereas great delays have been used by Sheriffs, Gaolers, and other Officers to whose Custody any of the King's Subjects have been committed for Criminal or supposed Criminal matters, in making Returns of Writs of Habeas Corpus to them directed, by standing out an Alias and Pluries Habeas Corpus, and sometimes more, and by other shifts, to avoid their yielding obedience to such Writs, contrary to their duty and the known Laws of the Land, whereby many of the King's Subjects have been and hereafter may be long detained in Prison in such Cases where by Law they are bailable; for prevention whereof, and the more speedy relief of all persons imprisoned for any such Criminal or supposed Criminal matter, be it enacted, that whensoever any person or persons shall bring any Habeas Corpus directed unto any Sheriff or Sheriffs, Gaoler, Minister, or other person whatsoever, for any person in his or their Custody, and the said Writ shall be served upon the said Officer or left at the Gaol or Prison with any of the Under Officers, Under Keepers, or Deputy of the said Officers or Keepers, that the said Officer or Officers, his or their Under Officers,

Under Keepers or Deputies, shall within Three Days after the service thereof as aforesaid (unless the Commitment aforesaid were for Treason or Felony, plainly and specially expressed in the Warrant of Commitment) upon payment or tender of the Charges of bringing the said Prisoner, to be ascertained by the Judge or Court that awarded the same, and indorsed upon the said Writ, not exceeding Twelve-pence per Mile, and upon Security given by his own Bond to pay the Charges of carrying back the Prisoner, if he shall be remanded by the Court or Judge to which he shall be brought, according to the true intent of this present Act, and that he will not make any escape by the way, make return of such Writ, and bring or cause to be brought the Body of the Party so committed or restrained unto or before the Lord Chancellor or Lord Keeper of the Great Seal of England for the time being, or the Judges or Barons of the said Court from whence the said Writ shall issue, or unto and before such other person or persons before whom the said Writ is made returnable, according to the command thereof, and shall then likewise certify the true causes of his Detainer or Imprisonment, unless the Commitment of the said Party be in any place beyond the distance of Twenty Miles from the Place or Places where such Court or Person is or shall be residing; and if beyond the distance of Twenty Miles and not above One hundred Miles, then within the space of Ten Days; and if beyond the distance of One hundred Miles, then within the space of Twenty Days after such Delivery aforesaid, and not longer. 31 Car. 2. c. 2. s. 1, 2.

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209, etc.

Expences of
removal of
prisoners.

And to the intent that no Sheriff, Gaoler, or other Officer may pretend ignorance of the import of any such Writ, be it enacted, that all such Writs shall be marked in this manner, *Per Statutum Tricesimo primo Caroli secundi Regis*, and shall be signed by the person that awards the same; and if any person or persons shall be or stand committed or detained as aforesaid for any Crime, unless for Felony or Treason plainly expressed in the Warrant of Commitment, in the Vacation time and out of Term, it shall and may be lawful to and for the person or persons so committed or detained (other than persons convict in Execution by legal Process), or any one in his or their behalf, to appeal or complain to the Lord Chancellor or Lord Keeper, or any one of His Majesty's Justices, either of the one Bench or of the other, or the Barons of the Exchequer of the degree of the Coif; and the said Lord Chancellor, Lord Keeper, Justices or Barons, or any of them, upon view of the

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Copy or Copies of the Warrant or Warrants of Commitment and Detainer, or otherwise upon Oath made that such Copy or Copies were denied to be given by such person or persons in whose Custody the Prisoner or Prisoners is or are detained, are hereby authorized and required, upon request made in Writing by such person or persons, or any on his, her, or their behalf, attested and subscribed by Two Witnesses who were present at the delivery of the same, to award and grant an *Habeas Corpus* under the Seal of such Court, whereof he shall then be one of the Judges, to be directed to the Officer or Officers in whose Custody the Party so committed or detained shall be, returnable *immediate* before the said Lord Chancellor or Lord Keeper, or such Justice, Baron, or any other Justice or Baron of the degree of the Coif of any of the said Courts; and upon service thereof as aforesaid, the Officer or Officers, his or their Under Officer or Under Officers, Under Keeper or Under Keepers, or their Deputy, in whose Custody the Party is so committed or detained, shall within the times respectively before limited, bring such Prisoner or Prisoners before the said Lord Chancellor or Lord Keeper, or such Justices, Barons, or one of them, before whom the said Writ is made returnable, and in case of his absence, before any other of them with the return of such Writ and the true Causes of the Commitment and Detainer; and thereupon within Two Days after the Party shall be brought before them, the said Lord Chancellor or Lord Keeper, or such Justice or Baron before whom the Prisoner shall be brought as aforesaid, shall discharge the said Prisoner from his Imprisonment, taking his or their Recognizance with one or more Surety or Sureties in any sum, according to their discretions, having regard to the Quality of the Prisoner and nature of the Offence, for his or their Appearance in the Court of King's Bench the Term following, or at the next Assizes, Sessions, or General Gaol Delivery of and for such County, City, or Place where the Commitment was, or where the Offence was committed, or in such other Court where the said Offence is properly cognizable, as the case shall require, and then shall certify the said Writ with the Return thereof, and the said Recognizance or Recognizances, into the said Court where such Appearance is to be made, unless it shall appear unto the said Lord Chancellor or Lord Keeper, or Justice or Justices, or Baron or Barons, that the Party so committed is detained upon a legal Process, Order, or Warrant, out of some Court that hath Jurisdiction of Criminal matters, or by some Warrant

signed and sealed with the Hand and Seal of any of the said Justices or Barons, or some Justice or Justices of the Peace for such Matters or Offences for the which by the Law the Prisoner is not bailable. s. 3.

Provided, that if any person shall have wilfully neglected, by the Space of two whole Terms after his Imprisonment, to pray a *Habeas Corpus* for his Enlargement, such person so wilfully neglecting shall not have any Habeas Corpus to be granted in Vacation Time, in pursuance of this Act. s. 4.

Persons neglecting for two terms to pray a Habeas shall not have one in vacation time.

If any Officer or Officers, his or their Under Officer or Under Officers, Under Keeper or Under Keepers, or Deputy, shall neglect or refuse to make the Returns aforesaid, or to bring the Body or Bodies of the Prisoner or Prisoners according to the command of the said Writ, within the respective times aforesaid, or upon demand made by the Prisoner or Person in his behalf, shall refuse to deliver, or within the space of Six Hours after demand shall not deliver to the person so demanding, a true Copy of the Warrant or Warrants of Commitment and Detainer of such Prisoner, which he and they are hereby required to deliver accordingly, all and every the Head Gaolers and Keepers of such Prisons, and such other Person in whose custody the Prisoner shall be detained, shall for the first offence forfeit to the Prisoner or Party grieved the Sum of One hundred Pounds, and for the second Offence the Sum of Two hundred Pounds, and shall and is hereby made incapable to hold or execute his said Office; the said Penalties to be recovered by the Prisoner or Party grieved, his Executors or Administrators, against such Offender, his Executors or Administrators, by any Action of Debt, &c. in any of the Courts at Westminster; and any Recovery or Judgement at the Suit of any Party grieved shall be a Conviction for the first Offence, and any after Recovery or Judgement at the Suit of a Party grieved, for any Offence after the first Judgement, shall be a sufficient Conviction to bring the Officers or Person within the said Penalty for the second Offence. s. 5.

Penalty on officers disobeying such writs.

And for prevention of unjust vexation by reiterated Commitments for the same Offence, be it enacted, that no person or persons which shall be delivered or set at large upon any *Habeas Corpus* shall at any time hereafter be again imprisoned or committed for the same Offence, by any person or persons whatsoever, other than by the legal Order and Process of such Court wherein he or they shall be bound by Recognizance to appear, or other Court having Jurisdiction of the Cause; and if any other

Persons enlarged by Habeas not to be re-committed but by order of court;

on penalty of
£500.

Persons committed for treason or felony, and not indicted the next term or sessions, etc. shall be bailed, unless affidavit be made that the witnesses for the crown could not then be produced.

Persons bailed and not indicted the second term or sessions, etc. shall be discharged.

Persons charged in debt shall not be discharged.

Persons shall not be removed from prison but by Habeas.

person or persons shall knowingly, contrary to this Act, recommit or imprison, or knowingly procure or cause to be recommitted or imprisoned, for the same Offence or pretended Offence, any person or persons delivered or set at large as aforesaid, or be knowingly aiding or assisting therein, then he or they shall forfeit to the Prisoner or Party grieved the Sum of Five hundred Pounds, any colourable Pretence or Variation in the Warrant or Warrants of Commitments notwithstanding, to be recovered as aforesaid. s. 6.

If any person or persons shall be committed for High Treason or Felony, plainly and specially expressed in the Warrant of Commitment, upon his Prayer or Petition in open Court the first Week of the Term, or first Day of the Sessions of Oyer and Terminer or General Gaol Delivery, to be brought to his Trial, shall not be indicted some time in the next Term, Sessions of Oyer and Terminer, or General Gaol Delivery, after such Commitment, it shall and may be lawful to and for the Judges of the Court of King's Bench and Justices of Oyer and Terminer or General Gaol Delivery, and they are hereby required, upon Motion to them made in open Court the last Day of the Term, Sessions, or Gaol Delivery, either by the Prisoner or any one in his Behalf, to set at Liberty the Prisoner upon Bail, unless it appear to the Judges and Justices, upon Oath made, that the Witnesses for the King could not be produced the same Term, Sessions, or General Gaol Delivery; and if any person or persons committed as aforesaid, upon his Prayer or Petition in open Court the first Week of the Term, or first Day of the Sessions of Oyer and Terminer and General Gaol Delivery, to be brought to his Trial, shall not be indicted and tried the second Term, Sessions of Oyer and Terminer, or Gaol Delivery after his commitment, or upon his Trial shall be acquitted, he shall be discharged from his imprisonment. s. 7.

Provided that nothing in this Act shall extend to discharge out of Prison any person charged in debt or other action, or with process in any civil cause, but that after he shall be discharged of his Imprisonment for such his criminal offence, he shall be kept in Custody according to the Law for such other Suit. s. 8.

Provided that if any person or persons, Subjects of this Realm, shall be committed to any Prison, or in Custody of any Officer or Officers whatsoever, for any criminal or supposed criminal matter, that the said person shall not be removed from the said Prison and Custody into the Custody of any other Officer

or Officers, unless it be by *Habeas Corpus*, or some other legal Writ, or where the Prisoner is delivered to the Constable, or other inferior Officer, to carry such Prisoner to some Common Gaol, or where any person is sent by order of any Judge of Assize, or Justice of the Peace to any common Workhouse or House of Correction, or where the Prisoner is removed from one Prison or Place to another within the same County, in order to his or her Trial or Discharge in due Course of Law, or in case of sudden fire or infection, or other necessity; and if any person or persons shall, after such commitment aforesaid, make out and sign or countersign any Warrant or Warrants for such removal aforesaid, contrary to this act, as well he that makes or signs or countersigns such Warrant or Warrants, as the Officer or Officers that obey or execute the same, shall suffer and incur the pains and forfeitures in this Act before mentioned, both for the first and second offences respectively, to be recovered in manner aforesaid, by the party grieved. s. 9.

Except in case of fire, infection, etc.

Provided that it shall and may be lawful to and for any prisoner and prisoners as aforesaid, to move and obtain his or their *Habeas Corpus*, as well out of the High Court of Chancery or Court of Exchequer, as out of the Courts of King's Bench or Common Pleas, or either of them: And if the said Lord Chancellor or Lord Keeper, or any Judge or Judges, Baron or Barons for the time being of the degree of the Coif of any of the Courts aforesaid, in the vacation time, upon view of the copy or copies of the Warrant or Warrants of commitment or detainer, or upon oath made that such copy or copies were denied as aforesaid, shall deny any Writ of *Habeas Corpus* by this act required to be granted, being moved for as aforesaid, they shall severally forfeit to the prisoner or party grieved the sum of five hundred pounds, to be recovered in manner aforesaid. s. 10.

Penalty on judges improperly denying to grant a *Habeas Corpus*;

And be it declared and enacted, that an *Habeas Corpus* according to the intent and meaning of this Act may be directed and run into any County Palatine, the Cinque Ports, or other privileged places within the Kingdom of England, Dominion of Wales, or Town of Berwick-upon-Tweed, and the Islands of Jersey or Guernsey; any law or usage to the contrary notwithstanding. s. 11.

Habeas may be sent into the counties palatine, cinque ports, etc.

And for preventing illegal imprisonments in Prisons beyond the seas, be it enacted, that no Subject of this Realm that now is or hereafter shall be an inhabitant or resiant of this Kingdom of England, Dominion of Wales, or Town of Berwick-upon-Tweed, shall or may be sent prisoner into Scotland, Ireland, Jersey, Guernsey, Tangier, or into Parts, Garrisons, Islands, or Places

No subject shall be sent to foreign prisons.

Penalty of not less than £500 on persons offending herein;

and disability to bear any office of trust or profit.

Not to extend to contracts for transportation.

Nor to persons convicted of felony and praying to be transported.

beyond the Seas, which are or at any time hereafter shall be within or without the Dominions of his Majesty, his Heirs or Successors; and that every such imprisonment is hereby enacted and adjudged to be illegal; and that if any of the said subjects now is or hereafter shall be so imprisoned, every such person and persons so imprisoned shall and may for every such imprisonment maintain by virtue of this Act an action or actions of false imprisonment in any of his Majesty's Courts of Record, against the person or persons by whom he or she shall be so committed, detained, imprisoned, sent prisoner, or transported contrary to the true meaning of this Act, and against all or any person or persons that shall frame, contrive, write, seal, or countersign any Warrant or Writing for such commitment, detainer, imprisonment, or transportation, or shall be advising, aiding, or assisting in the same, or any of them; and the plaintiff in every such action shall have judgment to recover his treble costs, besides damages, which damages so to be given shall not be less than five hundred pounds, in which action no delay, stay, or stop of proceedings by rule, &c. nor no injunction, &c. shall be allowed, except such rule of the Court wherein the action shall depend made in open Court, as shall be thought to justice necessary, for special cause to be expressed in the said rule; and the person or persons who shall knowingly frame, contrive, write, seal, or countersign any Warrant for such commitment, detainer, or transportation, or shall so commit, detain, imprison, or transport any person or persons contrary to this Act, or be any ways advising, aiding, or assisting therein, being lawfully convicted thereof, shall be disabled from thenceforth to bear any office of trust or profit within England, Wales, or Town of Berwick-upon-Tweed, or any of the Islands, Territories, or Dominions thereunto belonging, and shall incur and sustain the pains, penalties, and forfeitures of *premunire*, and be incapable of any pardon from the King, his Heirs or Successors, of the said forfeitures, losses, or disabilities, or any of them. s. 12.

This Act not to extend to give any benefit to any person who shall by contract in writing agree with any merchant or owner of any plantation, or other person, to be transported to any parts beyond the seas, and receive earnest upon such agreement, although that afterwards such person shall renounce such contract. s. 13.

If any person or persons lawfully convicted of any felony shall in open Court pray to be transported beyond the seas, and the Court shall think fit to leave him or them in prison for that

purpose, such person or persons may be transported into any parts beyond the seas, this act notwithstanding. s. 14.

If any person or persons at any time resiant in this Realm, shall have committed any capital offence in Scotland or Ireland, or any of the islands or foreign plantations of the King, his Heirs or Successors, where he or she ought to be tried for such offence, such person or persons may be sent to such Place, there to receive such trial, in such manner as the same might have been used before the making of this Act. s. 16.

Offenders in Scotland or Ireland may be sent to be tried where the offence was committed.

No person or persons shall be sued, impleaded, molested, or troubled for any offence against this Act, unless the party offending be sued or impleaded for the same within two years at the most after such time wherein the offence shall be committed, in case the party grieved shall not be then in prison, and if he shall be in prison, then within the space of two years after the decease of the person imprisoned, or his or her delivery out of prison, which shall first happen. s. 17.

Limitation of actions.

And to the intent no person may avoid his trial at the Assises or General Gaol Delivery by procuring his removal before the Assises, at such time as he cannot be brought back to receive his trial there, be it enacted, that after the Assises proclaimed for that county where the prisoner is detained, no person shall be removed from the Common Gaol upon any Habeas Corpus granted in pursuance of this Act, but upon any such Habeas Corpus shall be brought before the Judge of Assise in open Court, who is thereupon to do what to Justice shall appertain. s. 18.: Provided nevertheless, that after the Assises are ended, any person or persons detained may have his or her Habeas Corpus according to the direction and intention of this Act. s. 19.

After the assises proclaimed no person shall be removed by Habeas but shall be brought before the judge of assise.

Persons sued for any offence against this Law may plead the General Issue, and give the special matter in evidence. s. 20.

General issue.

And because many times persons charged with Petty Treason or Felony, or as accessaries thereunto, are committed upon suspicion only, whereupon they areailable or not according as the circumstances making out that suspicion are more or less weighty, which are best known to the Justices of the Peace that committed the persons, and have the examinations before them, or to other Justices of the Peace in the county; be it therefore enacted, that where any person shall appear to be committed by any Judge or Justice of the Peace, and charged as accessory before the fact to any Petty Treason or Felony, or upon suspicion thereof, or with suspicion of Petty Treason or Felony, which Petty Treason or Felony shall be plainly and specially

Persons charged with petty treason or felony, or as accessary thereto before the fact, shall not be removed

or bailed otherwise than heretofore.

expressed in the Warrant of Commitment, that such person shall not be removed or bailed by virtue of this Act, or in any other manner than they might have been before the making of this Act. s. 21.

See s. 6. of the Statute 56 G. 3. c. 100., post, p. 336.

Habeas Corpus (WRIT OF).

The Statute 43 G. 3. c. 140. "to enable the Judges of his Majesty's Courts of Record at Westminster to award Writs of Habeas Corpus for bringing persons detained in Gaol before Courts Martial, and the several Commissioners therein mentioned," recites, that "Writs of Habeas Corpus have been frequently awarded by the Judges of his Majesty's Courts of Record at Westminster, for bringing Persons detained in custody under civil or criminal process before Magistrates or Courts of Record, as well for trial as for examination touching matters depending before such Magistrates or Courts respectively; but doubts have arisen whether such Judges have power to award Writs of Habeas Corpus for bringing persons detained as aforesaid before Courts Martial, Commissioners of Bankrupt, Commissioners for Auditing the Public Accounts, or other Commissioners acting under Commission or Warrant from his Majesty; and that it is expedient to make provision for bringing Prisoners before such Courts Martial or Commissioners for the purposes herein-before mentioned;" and then enacts, that from and after the passing of this Act, it shall be lawful for any Judge of His Majesty's Courts of King's Bench or Common Pleas respectively, or for any Baron of his Majesty's Court of Exchequer of the degree of the Coif, at his discretion, to award a Writ or Writs of Habeas Corpus for bringing any prisoner or prisoners detained in any Gaol or Prison in that part of the United Kingdom of Great Britain and Ireland called England, before any Court Martial, or before any Commissioners of Bankrupt, Commissioners for Auditing the Public Accounts, or other Commissioners acting by virtue or under the authority of any commission or warrant from his Majesty, his heirs or successors, for trial, or to be examined touching any matter depending before such Courts Martial or Commissioners respectively; and the like proceedings shall be had upon such Writ or Writs of Habeas Corpus so to be awarded as aforesaid, as by law may now be had upon Writs of Habeas Corpus

Any judge of the courts at Westminster may award a Writ of Habeas Corpus for bringing any Prisoner in any gaol in England before a court-martial, commissioners of bankrupt, &c. commissioners for auditing public accounts, or certain other commissioners.

for bringing persons detained in Gaol before Magistrates or Courts of Record for such purposes as aforesaid; any Law, custom, or usage to the contrary thereof in anywise notwithstanding.

The Statute 56 G. 3. c. 100. intituled "An Act for more effectually securing the Liberty of the Subject," recites that "the Writ of *Habeas Corpus* hath been found by experience to be an expeditious and effectual method of restoring any person to his Liberty, who hath been unjustly deprived thereof;" and that the "extending the Remedy of such Writ, and enforcing Obedience thereunto, and preventing delays in the Execution thereof, will be advantageous to the Public;" and further reciting that the Provisions of the English Act 31 C. 2. c. 2. and of the Irish Act 21 and 22 G. 3. only extend to cases of Commitment or Detainer for criminal or supposed criminal matter; and then enacts, that where any person shall be confined or restrained of his or her Liberty (otherwise than for some criminal or supposed criminal matter, and except persons imprisoned for Debt or by Process in any civil Suit) within that part of Great Britain called England, Dominion of Wales, or Town of Berwick-upon-Tweed, or the Isles of Jersey, Guernsey, or Man, it shall and may be lawful for any one of the Barons of the Exchequer of the degree of the Coif, as well as for any one of the Justices of one Bench or the other; and where any person shall be so confined in Ireland, it shall and may be lawful for any one of the Barons of the Exchequer, or of the Justices of one Bench or the other in Ireland; and they are hereby required, upon complaint made to them by or on the behalf of the person so confined or restrained, if it shall appear by Affidavit or Affirmation (in cases where by Law an Affirmation is allowed) that there is a probable and reasonable ground for such complaint, to award in Vacation Time, a Writ of *Habeas Corpus ad subjiciendum* under the Seal of such Court whereof he or they shall then be Judges or one of the Judges, to be directed to the person or persons in whose custody or power the party so confined or restrained shall be, returnable immediately before the person so awarding the same, or before any other Judge of the Court under the Seal of which the said Writ issued. s. 1.

Judges may issue, in vacation, writs of Habeas Corpus returnable immediately, in cases other than for criminal matter, (except for debt).

If the person or persons to whom any Writ of Habeas Corpus shall be directed according to the provision of this Act, upon service of such Writ, either by the actual Delivery thereof to him, her, or them, or by leaving the same at the place where the party shall be confined or restrained, with any servant or agent of the person or persons so confining or restrain-

Non-obedience to such writ to be a contempt of court, and punishable accordingly.

ing, shall wilfully neglect or refuse to make a return or pay obedience thereto, he, she, or they shall be deemed guilty of a contempt of the Court, under the seal whereof such Writ shall have issued; and it shall be lawful to and for the said Justice or Baron, before whom such Writ shall be returnable, upon proof made by affidavit of wilful disobedience of the said Writ, to issue a warrant under his hand and seal for the apprehending and bringing before him, or before some other Justice or Baron of the same Court, the person or persons so wilfully disobeying the said Writ, in order to his, her, or their being bound to the King's Majesty, with two sufficient sureties, in such sum as in the Warrant shall be expressed, with condition to appear in the Court of which the said Justice or Baron is a Judge, at a day in the ensuing Term to be mentioned in the said Warrant, to answer the matter of contempt with which he, she, or they are charged; and in case of neglect or refusal to become bound as aforesaid, it shall be lawful for such Justice or Baron to commit such person or persons so neglecting or refusing to the Jail or Prison of the Court of which such Justice or Baron shall be a Judge, there to remain until he, she, or they shall have become bound as aforesaid, or shall be discharged by order of the Court in Term Time, or by order of one of the Justices or Barons of the Court in vacation; and the recognizance or recognizances to be taken thereupon shall be returned and filed in the same Court, and shall continue in force until the matter of such contempt shall have been heard and determined, unless sooner ordered by the Court to be discharged: Provided, that if such Writ shall be awarded so late in the Vacation by any one of the said Justices or Barons, that, in his opinion, obedience thereto cannot be conveniently paid during such vacation, the same shall and may, at his discretion, be made returnable in the Court of which the said Justice or Baron shall be a Justice or Baron, at a day certain in the next Term; and the said Court shall and may proceed thereupon, and award process of contempt in case of Disobedience thereto, in like manner as upon Disobediencce to any Writ originally awarded by the said Court: Provided also, that if such Writ shall be awarded by the Court of King's Bench, or the Court of Common Pleas, or Court of Exchequer, in the said Countries respectively, which last-mentioned Court shall have like power to award such Writs as the respective Courts of King's Bench and Common Pleas in each of the said Countries now have, in Term, but so late that, in the judgment of the Court, obedience thereto cannot be conveniently paid during such term, the same shall and may,

Judges to make writs of Habeas Corpus, issued in vacation, returnable in court in the next term.

Courts to make writs issued in term returnable in vacation.

at the discretion of the said Court, be made returnable at a day certain in the then next vacation, before any Justice or Baron of the degree of the Coif, or if in Ireland, before any Justice or Baron of the same Court, who shall and may proceed thereupon, in such manner as by this Act is directed concerning Writs issuing in and made returnable during the Vacation. s. 2.

In all Cases provided for by this Act, although the Return to any Writ of Habeas Corpus shall be good and sufficient in Law, it shall be lawful for the Justice or Baron before whom such Writ may be returnable, to proceed to examine into the truth of the facts set forth in such Return, by Affidavit or by Affirmation (in cases where an Affirmation is allowed by Law), and to do therein as to Justice shall appertain; and if such Writ shall be returned before any one of the said Justices or Barons, and it shall appear doubtful to him on such Examination, whether the material Facts set forth in the said Return, or any of them, be true or not, in such Case it shall and may be lawful for the said Justice or Baron to let to bail the said Person so confined or restrained, upon his or her entering into a Recognizance with One or more Sureties, or in case of Infancy or Coverture, or other Disability, upon Security by Recognizance, in a reasonable Sum, to appear in the Court of which the said Justice or Baron shall be a Justice or Baron, upon a Day certain in the Term following, and so from Day to Day as the Court shall require, and to abide such Order as the Court shall make in and concerning the Premises; and such Justice or Baron shall transmit into the same Court the said Writ and Return, together with such Recognizance, Affidavits, and Affirmations; and thereupon it shall be lawful for the said Court to proceed to examine into the truth of the facts set forth in the return in a summary way, by affidavit or affirmation (in cases where by law affirmation is allowed), and to order and determine touching the discharging, bailing, or remanding the Party. s. 3.

Judges to inquire into the truth of facts contained in return.

Judge to bail on recognizance to appear in term, etc.

The like proceeding may be had in the Court for controverting the truth of the return to any such Writ of Habeas Corpus awarded as aforesaid, although such Writ shall be awarded by the said Court itself or be returnable therein. s. 4.

Court may controvert the truth of the return.

And be it *declared* and enacted by the authority aforesaid, that a Writ of Habeas Corpus, according to the true intent and meaning of this Act, may be directed and run into any County Palatine, or Cinque Port, or any other privileged place within

Writ may run into counties palatine, cinque ports, and privileged places, etc.

that part of Great Britain called England, Dominion of Wales, and Town of Berwick-upon-Tweed, and the Isles of Jersey, Guernsey and Man respectively; and also into any Port, Harbour, Road, Creek, or Bay, upon the Coast of England or Wales, although the same shall lie out of the body of any County; and if such Writ shall issue in Ireland, the same may be directed and run into any Port, Harbour, Road, Creek, or Bay, although the same should not be in the body of any County; any law or usage to the contrary in anywise notwithstanding. s. 5.

Process of contempt may be awarded in vacation against persons disobeying writs of Habeas Corpus in cases within stat.
31 Car. 2. c. 2.

The several provisions made in this Act, touching the making Writs of Habeas Corpus issuing in time of vacation returnable into the said Courts, or for making such Writs awarded in term time returnable in vacation, as the cases may respectively happen, and also for making wilful disobedience thereto a Contempt of the Court, and for issuing warrants to apprehend and bring before the said Justices or Barons, or any of them, any person or persons wilfully disobeying any such Writ; and in case of neglect or refusal to become bound as aforesaid, for committing the person or person so neglecting or refusing to Gaol as aforesaid, respecting the recognizances to be taken as aforesaid, and the proceeding or proceedings thereon, shall extend to all Writs of Habeas Corpus awarded in pursuance of the said Act, passed in England in the Thirty-first year of the reign of King Charles the Second, or of the said Act passed in Ireland in the twenty-first and twenty-second years of His present Majesty, and herein-before recited, in as ample and beneficial a manner as if such Writs and the said cases arising thereon had been herein-before specially named and provided for respectively. s. 6.

Power of judges in England and Wales to grant an Habeas Corpus ad testificand.

The Statute 44 G. 3. c. 102. enacts, that from and after the passing of this Act it shall be lawful for any Judge of his Majesty's Courts of King's Bench or Common Pleas of England and Ireland respectively, or any Baron of his Majesty's Court of Exchequer of the degree of the Coif in England, or any Baron of his Majesty's Court of Exchequer in Ireland, or any Justice of Oyer and Terminer or Gaol Delivery, being such Judge or Baron as aforesaid, at his discretion to award a Writ or Writs of Habeas Corpus for bringing any prisoner or prisoners detained in any Gaol or Prison before any of the said Courts, or any Sitting of Nisi Prius, or before any other Court of Record in the said part of the said United Kingdom, to be there examined as a witness or witnesses, and to testify the truth before such Courts, or any Grand, Petit, or other Jury, in any

cause or causes, matter or matters, civil or criminal whatsoever, which now are or hereafter shall be depending, or to be inquired into or determined in any of the said Courts.

By s. 2. every Justice of Great Sessions in Wales and in the County Palatine of Chester, shall have the like authority within the limits of his jurisdiction.

Like power to justices of great sessions in Wales.

No Writ of Habeas Corpus or Certiorari shall be hereafter granted to remove any prisoner out of any Gaol, or to remove any recognizance, except the same Writs be signed with the proper hands of the Chief Justice, or in his absence one of the Justices of the Court, out of which such Writs shall be awarded or made, upon pain that he that writeth any such Writs not being signed as is aforesaid, to forfeit to the King for every such Writ and Writs Five Pounds. 1, 2 P. & M. c. 13. s. 7.

No Habeas Corpus shall be issued till signed by a judge ;

on penalty of £5 on the writer.

Hawks.

The Statute 37 Ed. 3. c. 10. recites the Statute 34 Ed. 3. c. 22. and then enacts, that if any steal any Hawk, and the same carry away, not doing the ordinance mentioned in the recited Statute, it shall be done of him as of a thief that stealeth a Horse or other thing.

Stealing a hawk felony.

These Statutes are now repealed by the operation of the Statute 5 Eliz. c. 21. s. 3., which enacts that if any person shall take away any Hawk or Hawks, or the Eggs of any of them, by any ways or means unlawfully out of any of the Woods or Ground of any person, (not having lawful authority or licence so to do), he shall be imprisoned three months, and pay the party grieved treble damages.

The penalty for taking hawks or their eggs.

Co. pl. 361.

More particularly as to the mode of proceeding against offenders, see this Act under title FISH PONDS.

Highways.

Where any Lands have been or shall be given for the maintenance of Causeys, Pavements, Highways (1) and Bridges, all persons enfeoffed or trusted with such Lands, shall let them to farm at the most improved yearly value, without fine; and the Justices of the Peace in their open Sessions shall and may enquire by such ways and means as they think fitting into the value of all such Lands, and order the Improvement and Employment of the Rents and Profits thereof, according to the

Lands given for maintaining bridges shall be letten at the best rent without fine.

Justices in sessions may inquire of neglects.

(1) Repealed as to Highways by 7 G. 3. c. 40. 13 G. 3. c. 78. 13 G. 3. c. 84.

will and direction of the donor of such Lands, if they find that the persons so intrusted have been negligent or faulty in the performance of their trust, (except such Lands as have been given to the uses aforesaid, to any College or Hall in either of the Universities which have visitors of their own.) 22 Car. 2. c. 12. s. 2.

Defects of repair
indictable only
in the proper
county.

All defects of repairs of Causeys, Pavements, Highways, or Bridges, shall be presented in the county only where such Causeys, &c. or Bridges do lie, and not elsewhere; and no such presentment or indictment shall be removed by Certiorari or otherwise, till such indictment, &c. be traversed and judgment thereupon given. s. 4.

Homicide.

I. *Petit Treason and Murder.*

II. i. *Murder and Manslaughter in general.*

ii. *Homicide by stabbing another not having a Weapon drawn.*

iii. *Homicide by Foresters, &c. killing Trespassers not yielding after Hue and Cry made.*

iv. *Homicide occasioned by overloading Boats on the River Thames.*

v. *Homicide in any Palace or Royal Residence.*

vi. *Murder of Bastards.*

vii. *Murder and Manslaughter committed in Places not within his Majesty's Dominions.*

III. *Appeal of Murder.*

IV. *Accessaries to Murder.*

V. *Trials in cases of Murder.*

VI. *Judgement in Murder.*

VII. *Forfeiture in Homicide.*

I. *Petit Treason and Murder*

§ 1.
It shall be treason to slay the chancellor, treasurer, or judges.

The Statute 25 Ed. 3. st. 5. c. 2. (1) recites, that whereas divers opinions have been before this time in what case Treason shall be said, and what not; the King at the request of the Lords and of the Commons hath made a declaration in the manner as hereafter followeth; that is to say, if a man Slea the Chancellor, Treasurer, or the King's Justices of the one Bench or the other, Justices in Eyre, or Justices of Assise, and all other Justices assigned to hear and determine, being in their places doing their offices;

(1) See this act at length under title TREASON.

and it is to be understood, that in the Cases above rehearsed that ought to be judged Treason, which extends to our Lord the King and his Royal Majesty; and of such Treasons the forfeiture of the Escheats pertaineth to our Sovereign Lord, as well of the Lands and Tenements holden of other, as of him. And moreover, there is another manner of Treason, that is to say, when a Servant slayeth his Master, or a Wife her Husband, or where a Man secular or religious slayeth his Prelate, to whom he oweth faith and obedience; and of such Treasons the Escheats ought to pertain to every Lord of his own fee.

It is ordained, that if any lay person hereafter murder their Lord, Master, or Sovereign immediate, that they hereafter be not admitted to their Clergy, and after conviction or attainder of any such person so hereafter offending had after the course of the Law, that the same person be put in execution, as though he were no Clerk. 12 H. 7. c. 7.

By the Statute 28 H. 8. c. 1. s. 3. it is enacted, that no person nor persons which hereafter shall happen to be found guilty after the Laws of this Land, for any manner of Petit Treason, or for any wilful Murder of Malice prepensed, nor any person or persons being found guilty of any abetment, procurement, helping, maintaining, or counselling of or to any such Petit Treasons or Murders (1), shall from henceforth be admitted to the benefit of his or their Clergy, but utterly be excluded thereof, and suffer Death in such manner and form as they should have done for any of the Causes or Offences above-said if they were no Clerks; such as be within Holy Orders, that is to say, of the Orders of Sub-deacon or above, only except.

This Statute is made perpetual by 32 H. 8. c. 3. s. 7.

The Statute 25 H. 8. c. 3. recites the above Statute of 23 H. 8. c. 1. and that it extended only to such persons as were found guilty *after the due Course of the Laws of the Land*, by reason whereof many Offenders upon their Arraignment did stand mute, or challenged peremptorily above the number of twenty, or else would not answer directly to the Indictment whereby they had the benefit of their Clergy, and for that those especial Cases were not expressly comprized and contained within the Letter of the same Statute, and that it was necessary and expedient that the same Cases should be clearly and definitively expounded and declared, and then (by s. 2.) enacts,

§ 2.

No lay person murdering his master shall have his clergy.

§ 3.

Persons found guilty of petit treason and murder, and certain accessories to the same, ousted of clergy.

Co. pl. 352.
2 Inst. 64. 67.
115.
Kel. 67—69.
Dyer, f. 224.
11 Co. 29.
1 Bulstr. 112.

§ 4.

(1) Several other felonies are named in the Act, which will be found under the appropriate titles.

Extended to offenders standing mute or challenging above twenty, etc.

that every person and persons that is or hereafter shall be indicted of Petit Treason, Murther, or other Felony (1), according to the tenor and meaning of the same Statute, and thereupon arraigned, and do stand mute of malice or froward mind, or challenge peremptorily above the number of twenty, or else will not or do not answer directly to the same Indictment and Felony whereupon he is so arraigned, shall from henceforth lose the benefit and privilege of his or their Clergy, in like manner and form as if he had directly pleaded to the same Petit Treason, Murther or other Felony, whereupon he is so arraigned, not guilty, and thereupon had been found guilty after the Laws of the Land.

This last mentioned Statute is made perpetual by 32 H. 8. c. 3. s. 7.

Offenders found guilty of murder or wilful poisoning ousted of clergy.

By the Statute 1 Edw. 6. c. 12. s. 10. it is enacted, that no person or persons that hereafter shall be in due form of the Laws attainted or convicted of Murder of malice prepensed, or of Poisoning of malice prepensed, or being indicted or appealed of the same Offences, and thereupon found guilty by Verdict of Twelve Men, or shall confess the same upon his or their Arraignment, or will not answer directly, according to the Laws of this Realm, or shall stand wilfully or of malice mute, shall not be admitted to have or enjoy the privilege or benefit of his Clergy.

§ 5.

In wilful murder by poisoning, offenders ousted of clergy.

All wilful killing by Poisoning of any person or persons, that at any time hereafter shall be done, perpetrated, or committed, shall be adjudged, taken, and deemed wilful Murder of malice prepensed, and the Offenders therein, their Aiders, Abettors, Procurers and Counsellors, shall suffer Death, and forfeit in every behalf as in other cases of wilful Murder of malice prepensed. 1 Edw. 6. c. 12. s. 13.

No offence shall be high or petit treason but what are named in this act and 25 Ed. 3. st. 5. c. 2.

The Statute of 1 Ed. 6. c. 12. (s. 2.) enacts, that from henceforth no Act, Deed or Offence, being by Act of Parliament or Statute made Treason or Petit Treason by words, writing, cyphering, deeds, or otherwise, shall be taken, had, deemed, and adjudged to be High Treason or Petit Treason, but only such as be Treason or Petit Treason by the Act or Statute made 25 Ed. 3. and such Offences as hereafter by this present Act shall be declared to be Treason or Petit Treason; nor that any pains of death, penalty, or forfeiture ensue to any one for doing any Treason or Petit Treason other than as is by the said Statute 25 Ed. 3. and this Act ordained.

(1) Several other felonies are named in the Act, which will be found under the appropriate titles.

By s. 22. of the same Statute 1 Ed. 6. no person shall hereafter be indicted, arraigned, condemned, or convicted for any Treason, Petit Treason, Misprision of Treason, or for any Words to be spoken, for which the same Offender or Speaker shall in any wise suffer any pains of death, imprisonment, loss or forfeiture of his goods, chattels, lands, or tenements, unless such Offender or Speaker be accused by two sufficient and lawful Witnesses, or shall willingly without violence confess the same.

§ 6.
There shall be two witnesses to every treason.

The Statute 5, 6 Ed. 6. c. 11. s. 12. (1) enacts, that no person or persons shall be indicted, arraigned, condemned, convicted, or attainted for any Treasons or Offences aforesaid (2), or for any other Treasons that now be or hereafter shall be, which shall hereafter be perpetrated, committed, or done, unless the same offender or offenders be thereof accused by two lawful Accusers; which said accusers at the time of the arraignment of the party accused, if they be then living, shall be brought in person before the party so accused, and avow and maintain that that they have to say against the said party, to prove him guilty of the Treasons or Offences contained in the bill of indictment laid against the party arraigned, unless the said party arraigned shall willingly without violence confess the same.

Upon the arraignment of any person which hereafter shall fortune to be arraigned for any Treason mentioned in this Act, all and every such person or persons (or two of them at the least) who shall hereafter write, declare, confess, or depose any thing or things against any person to be arraigned, shall, if living and within this Realm, be brought forth in person before the party arraigned if he require the same, and object and say openly in his hearing what they or any of them can against him for or concerning any the Treasons contained in the Indictment whereupon the party shall be so arraigned, unless the party arraigned for any such Treason shall willingly confess the same at the time of his or their arraignment. 1, 2 P. & M. c. 10. s. 11. (3)

The Statute 1, 2 P. & M. c. 10. s. 7. enacts, that all trials hereafter to be had for any Treason, shall be had and used only according to the due order and course of the Common Laws of this Realm, and not otherwise.

§ 7.
All trials for treasons shall be had according to the due course of law.

(1) Which Mr. East says, by general words extends to all Treasons. East P. C. 339. § 104.

(2) See these offences specified under title TREASON, where this Act is inserted at length.

(3) This act includes Petit Treason. East P. C. 339. § 104.

II. i. *Murder and Manslaughter in general.*

(And see Division I. of this Title.)

By the Statutes 28 H. 8. c. 1. s. 3. and 25 H. 8. c. 3. s. 1. Clergy is taken away from offenders committing Petit Treason and Murder, and the accessaries to the same, being convicted thereof or standing wilfully mute, &c. See these Statutes under Divisions I. and IV. of this Title.

§ 1.

Homicide by misfortune.

Offenders committing homicide by misfortune, or in self-defence, shall be sent to prison till the coming of the justices in eyre, who shall inquire thereof by the country.

Appeals shall not be abated for want of fresh suit.

Murder from henceforth shall not be judged before our Justices where it is found misfortune only, but it shall take place in such as are slain by Felony and not otherwise. 52 H. 3. c. 25.

The King commandeth that no writ shall be granted out of the Chancery for the death of a man, to enquire whether a man did kill another by Misfortune, or in his own Defence, or in other manner without Felony, but he shall be put in Prison until the coming of the Justices in Eyre, or Justices assigned to the Goal-delivery; and shall put himself upon the Country before them for Good and Evil. In case it be found by the Country that he did it in his Defence, or by Misfortune, then by the report of the Justices to the King, the King shall take him to his Grace if it please him. It is provided also, that no Appeal shall be abated so soon as they have been heretofore; but if the appellor declare the Deed, the Year, the Day, the Hour, the time of the King, and the Town where the Deed was done, the Appeal shall stand in effect, and shall not be abated for Default of fresh Suit, if the Party shall sue within the Year and the Day after the Deed done. 6 Ed. 1. c. 9.

§ 2.

A murderer indicted shall be presently arraigned at the king's suit.

3 Inst. 131. 213.

A murderer indicted and acquitted shall not be let at liberty.

3 Mod. 156.

1 Salk. 63.

Keyl. 25.

If any man be slain or murdered, and thereof the Slayers, Murderers, Abettors, Maintainers, and Comforters of the same be indicted, that the same Slayers and Murderers, and all other Accessaries of the same, be arraigned and determined of the same Felony and Murder at any time, at the King's Suit, within the year after the same Felony and Murder done, and not tarry the year and day for any Appeal to be taken for the same Felony and Murder; and if it happen any person named as Principal or Accessary to be acquitted of such Murder at the King's Suit, within the Year and Day, that then the said Justices afore whom he is acquitted shall not suffer him to go at large, but either to remit him again to the Prison, or else to let him to bail, after their discretion, till the Year and Day be passed. 3 H. 7. c. 1.

§ 3.

It shall not be lawful to slay a person attainted of premunire.

Reciting doubts whether there was any punishment for such as Killed or Slayed any Person attainted upon a præmunire; It is enacted, that it shall not be lawful to any person or persons to Slay or Kill any person or persons in any manner attainted of,

in, or upon any præmunire, by pretence of any Judgment given upon the same, or by pretence, reason, or force of any word or thing entertained or specified in any Statute or Law of provision and præmunire. 5 Eliz. c. 1. s. 21.

II. ii. Homicide by stabbing another not having a Weapon drawn.

To the end that Stabbing and Killing men on the sudden, done and committed by many inhumane and wicked Persons in the time of their Rage, Drunkenness, hidden Displeasure, or other Passion of Mind, may from henceforth be restrained through fear of the Punishment to be inflicted on such cruel and bloody Malefactors, who heretofore have been thereunto emboldened by presuming on the benefit of Clergy; be it enacted, that every Person and Persons which shall stab or thrust any Person or Persons that hath not then any Weapon drawn, or that hath not then first stricken the Party which shall so stab or thrust, so as the Person or Persons so stabbed or thrust shall thereof die within the space of Six Months then next following, although it cannot be proved that the same was done of Malice forethought, yet the Party so offending and being thereof convicted by verdict of twelve men, confession, or otherwise according to the Laws of this Realm, shall be excluded from the benefit of his or their Clergy, and suffer Death, as in case of Wilful Murder. 1 Jac. 1. c. 8.

Clergy taken from offenders that stab and kill another person not having a weapon drawn.

1 Bulstr. 87.
Godbolt, 154.
pl. 204.
Still. 86, 468.
1 Hale, P.C. 466.
Fost. Cr. Law, Allen, 43, 44.

This Act shall not extend to any Person or Persons which shall kill any Person *se defendendo*, or by Misfortune, or in any other Manner than as aforesaid, nor shall extend to any Person which in keeping and preserving the Peace shall chance to commit Manslaughter, so as the said Manslaughter be not committed wittingly, willingly and of purpose, under pretext and colour of keeping the Peace; nor shall extend to any Person which, in chastising or correcting his Child or Servant, shall, besides his or their intent and purpose, chance to commit Manslaughter. s. 2.

Exceptions to this Act.

The above Statute is by 3 Car. 1. c. 4. s. 22. continued to the end of the first Session of the next Parliament, and by 16 Car. 1. c. 4. the whole of the Statute 3 Car. 1. c. 4. shall be in force "until some other Act of Parliament be made touching the continuance or discontinuance of the said Statutes and Acts in the said Act of the Third Year of His Majesty's Reign continued as aforesaid."

II. iii. Homicide by Foresters, &c. killing Trespassers not yielding after Hue and Cry made.

If a Forester, Parker, or Warrener shall find any Trespassers wandering within his Liberty intending to do damage therein, and that will not yield themselves to the Foresters, Warreners,

§ 1.
Foresters killing trespassers who will not sur-

render, indemnified.

or Parkers, after Hue and Cry made to stand unto the Peace, but do continue their malice, and disobeying the King's Peace, do flee or defend themselves with Force and Arms, although such Foresters, Parkers, and Warreners, or any other coming in their Company and aiding such Foresters, Parkers, and Warreners, in the King's Peace, do kill any Offender or Offenders being so found, in arresting or taking them, they shall not be troubled for the same, nor suffer any punishment. 21 Ed. 1. st. 2.

Notwithstanding, let all such Foresters, Parkers, Warreners, and all other, beware that by reason of any malice, discord, debate, or other evil will or hatred had before time, they do not maliciously pretend against any person passing through their Liberties, that they came thither for to trespass or misdo, when of truth they did nothing, nor were not found as Trespassers or intending to trespass, and so kill them; for if they do, and be convict thereupon, the Death of such person shall be inquired, and execution shall be done in like manner as is done for other of the King's Subjects standing in his Peace, and like as it ought to be done of right and according to the Law and Custom of this Realm. s. 2.

§ 2.

Extended to owners of deer and lords of manors, &c.

By 3, 4 W. & M. c. 10. s. 5. owners of Deer in any inclosed land, or any Persons under them, may resist Offenders in like manner, and be equally indemnified for so doing, as in ancient Parks or Chases.

And by 4, 5 W. & M. c. 23. s. 4. Lords of Manors or other Royalties, and Gamekeepers authorized by them, may resist offenders in the night within their respective Manors or Royalties, in the same manner and with equal indemnity as if the fact had been committed within any ancient Chase, Park, or Warren inclosed.

II. iv. Homicide occasioned by Overloading Boats on the River Thames.

Persons navigating certain boats shall only carry a limited number of passengers; and if they transgress, and any one is drowned, they shall be

In case any greater number of Persons shall be received, taken into, or carried in any such Tilt Boats, Row Barges, Ferry Boats, or other Boats or Wherries (1), than are respectively allowed to be carried as aforesaid (2), and any Passenger or Passengers shall then be drowned, every such Person or Persons who shall work or navigate such Tilt Boats, Row Barges, Ferry

(1) Navigating for hire between Gravesend and Windsor.

(2) The numbers allowed by the Act are in row barges and tilt boats thirty-seven passengers, and three more taken on board by the way; in other boats and wherries, eight passengers, and two more if called in by the way; and in ferry boats and wherries allowed to work on Sundays, eight passengers only at one and the same time.

Boats, or other Boats or Wherries, offending therein, and being thereof lawfully convicted, shall be deemed guilty of Felony, and shall be transported as Felons. 10 G. 2. c. 31. s. 8. deemed guilty of felony.

II. v. Homicide in any Palace or Royal Residence.

By the Stat. 33 H. 8. c. 12. all Treasons, Murders, Manslaughters, Bloodsheds, and malicious Strikings (1) within any Palaces, or Houses of his Majesty, or his Heirs, or any other House where the King shall happen to be then demurrant or abiding in his Royal Person, shall be enquired of, heard, tried and determined before the Lord Great Master or Lord Steward for the time being of the King's Household, as directed by that Statute; which see at length under title PALACES, and which to prevent repetition is not inserted under this title. When, before whom, and how murders, &c. committed in the king's palaces or houses shall be inquired of, &c. and determined.

II. vi. Murder of Bastards.

The Statute 43 G. 3. c. 58. (s. 3.) recites, that doubts have been entertained respecting the true sense and meaning of the [English] Act 21 Jac. 1. c. 27. and the [Irish] Act 6 Ann. c. 4. for preventing the destroying and murdering of Bastard children, "and the same have been found in sundry cases difficult and inconvenient to be put in practice;" and then, "for remedy thereof," enacts, that from and after 1 July 1803, the said two several Acts, and every thing therein contained, shall be and the same are hereby repealed; and that [from and after the same Day], the Trials in England and Ireland respectively, of Women charged with the Murder of any Issue of their Bodies, Male or Female, which being born alive would by Law be Bastard, shall proceed and be governed by such and the like Rules of Evidence and of Presumption as are by Law used and allowed to take place in respect to other Trials for Murder, and as if the said two several Acts had never been made. The statutes 21 Jac. 1. c. 27. English, and 6 Ann. c. 4. Irish, as to murdering bastard children, repealed.

Provided always, that it shall and may be lawful for the Jury by whose Verdict any Prisoner charged with such Murder as aforesaid shall be acquitted, to find, in case it shall so appear in Evidence that the Prisoner was delivered of Issue of her Body, Male or Female, which, if born alive, would have been Bastard, and that she did by secretly burying or otherwise endeavour to conceal the birth thereof, and thereupon it shall be lawful for the Court before which such Prisoner shall have been tried to adjudge that such Prisoner shall be committed to the Common Gaol or House of Correction for any time not exceeding Two Years. s. 4. The trial of women for such offence shall proceed as in other cases of murder.

Women acquitted of such murder, may be found guilty of the concealment of the birth,

and imprisoned not exceeding two years.

(1) And other offences mentioned in the Act, for which see under title PALACES.

II. vii. *Murders and Manslaughters committed in Places not within his Majesty's Dominions.*

The Statute 57 G. 3. c. 53. intituled "an Act for the more effectual Punishment of Murders and Manslaughters committed in Places not within his Majesty's Dominions," recites that "grievous Murders and Manslaughters have been committed at the Settlement in the Bay of Honduras in South America, the same being a Settlement, for certain purposes, in the Possession and under the Protection of his Majesty, but not within the Territory and Dominion of his Majesty, by Persons residing and being within the said Settlement; and the like Offences have also been committed in the South Pacific Ocean, as well on the High Seas as on Land, in the Islands of New Zealand and Otaheite, and in other Islands, Countries, and Places not within his Majesty's Dominions, by the Masters and Crews of British Ships, and other Persons, who have for the most part deserted from or left their Ships, and have continued to live and reside amongst the Inhabitants of those Islands; whereby great Violence has been done, and a general Scandal and Prejudice raised against the Name and Character of British and other European Traders;" and that "such Crimes and Offences do escape unpunished by reason of the difficulty of bringing to Trial the persons guilty thereof;" and then, for remedy thereof, enacts, that from and after the passing of this Act all Murders and Manslaughters committed or that shall be committed on Land at the said Settlement in the Bay of Honduras, by any person or persons residing or being within the said Settlement, and all Murders and Manslaughters committed or that shall be committed in the said Islands of New Zealand and Otaheite, or within any other Islands, Countries, or Places not within his Majesty's Dominions, nor subject to any European State or Power, nor within the Territory of the United States of America, by the Master or Crew of any British Ship or Vessel, or any of them, or by any Person sailing in or belonging thereto, or that shall have sailed in or belonged to and have quitted any British Ship or Vessel to live in any of the said Islands, Countries, or Places, or either of them, or that shall be there living, shall and may be tried, adjudged, and punished in any of his Majesty's, Islands, Plantations, Colonies, Dominions, Forts or Factories, under or by virtue of the King's Commission or Commissions, which shall have been or which shall hereafter be issued under and by virtue and in pursuance of the Powers and Authorities of an Act passed in the Forty-sixth Year of

Murders and manslaughter committed in certain foreign parts, may be tried in any of his Majesty's foreign plantations, in same manner as offences committed on the high seas :

his present Majesty, [46 G. 3. c. 54.] in the same manner as if such Offence or Offences had been committed on the High Seas.

Provided always, that nothing herein contained shall repeal or affect, or be construed to repeal or affect, the Provisions of an Act made and passed in the Thirty-third Year of King Henry the Eighth [33 H. 8. c. 23.] s. 2.

But not to repeal or affect any of the provisions in the act 33 H. 8. c. 23.

III. *Appeal of Homicide.*

(And see Division II. i. § 1.)

No Man shall be taken or imprisoned upon the Appeal of a Woman for the Death of any other than of her Husband. 9 H. 3. c. 34.

§ 1.

A woman shall have an appeal only for the death of her husband.

If any Man be slain or murdered, and thereof the Slayers, Murderers, Abettors, Maintainers, and Comforters of the same be indicted, that the same Slayers and Murderers, and all other Accessories of the same, be arraigned and determined of the same Felony and Murder at any time, at the King's Suit, within the year after the same Felony and Murder done, and not tarry the year and day for any Appeal to be taken for the same Felony or Murder; and if it happen any Person named as Principal or Accessary to be acquitted of such Murder at the King's Suit, within the year and day, that then the said Justices afore whom he is acquitted shall not suffer him to go at large, but either to remit him again to the Prison or else to let him to Bail, after their discretion, till the year and day be past. And if it fortune the same Felons or Murderers and Accessories so arraigned, or any of them, to be acquit, or the Principal of the said Felony or any of them to be attainted, the Wife or next Heir to him so slain as shall require, may take and have their Appeal of the same Death and Murder within the year and day after the same Felony and Murder done against the said Persons so arraigned and acquit, and all other their Accessories, or against the Accessories of the said Principal or any of them so attainted, or against the said Principals so attainted, if they be on live, and the benefit of his Clergy thereof before not had: And that the Appellant have such and like advantage as if the said Acquittal or Attainder had not been, the said Acquittal or Attainder notwithstanding: And over that the Wife, or Heir of the said Person so slain or murdered, as the case shall require, may commence their Appeal in proper Person at any time within the year after the said

§ 2.

A murderer indicted and acquitted shall be kept in custody or bailed for a year and day, to answer the appeal.

3 Mod. 156.
1 Salk. 63.
Kel. 25.

§ 3.

Appeal against him that was arraigned of murder, within which time and before whom the appeal shall be commenced.

The appellant
may in certain
cases make his
attorney.

Rast. 53.

Felony done, before the Sheriff and Coroners of the County where the said Felony or Murder was done, or before the King in his Bench, or Justices of Gaol Delivery; and the Appellant in any Appeals of Murder or Death of Man, where Battail by the course of the Common Law lieth not, may make their Attornies, and appear by the same, in the said Appeals after they be commenced, to the end of the suit and execution of the same. And if any Person be slain or murdered in the day, and the Murderer scape untaken, that the Township where the said deed is so done be amerced for the said Escape; and that the Coroner have authority to enquire thereof, upon the view of the Body dead; and also Justices of Peace have power to enquire of such Escapes, and that to certify afore the King in his Bench; and that after the Felony found, the Coroner deliver their Inquisitions afore the Justices of the next Gaol Delivery in the Shire where the Inquisition is taken, the same Justices to proceed against such Murderers, if they be in the Gaol or else the same Justices to put the same Inquisitions afore the King in his Bench. 3 H. 7. c. 1.

§ 4.

Where poison
or a stroke is
given in one
county, and the
party die thereof
in another, the
appeal shall be
in the county
where the death
took place.

The Statute 2, 3 Ed. 6. c. 24. provides for the Indictment and Trial of Offenders guilty of the Death of another, in those cases where the blow or poison is given in one County and Death ensues in another, and that such Offenders shall be indicted and tried in the County where the Death takes place; and then enacts, that such Party to whom Appeal of Murder shall be given by the Law, may commence, take, and sue Appeal of Murder in the same County where the Party so feloniously stricken or poisoned shall die, as well against the Principal as against every Accessary to the same Offences, in whatsoever County or Place the Accessary shall be guilty to the same; and the Justices before whom such Appeal shall be commenced, sued and taken, within the year and day after such Murder and Manslaughter committed and done, shall proceed against every such Accessary in the same County where such Appeal shall be so taken, in like manner as if such Offence of Accessary had been committed in the same County where such Appeal shall be so taken, as well concerning the Trial by Jurors of twelve men of such County where such Appeal shall be taken upon the plea of not guilty, pleaded by such Offender, as otherwise. s. 3. And every such Offender above expressed shall answer upon their arraignments, and receive such Trial, Judgment, Order, and Execution, and suffer such Forfeitures, Pains, and Penalties, as is used in other cases of Felony. s. 4.

IV. Accessories to Murder.

The Statute 23 H. 8. c. 1. s. 3. enacts, that no person nor persons which hereafter shall happen to be found guilty after the Laws of this Land for any manner of Petit Treason, or for any wilful Murder of malice prepensed, nor any person or persons being found guilty of any abetment, procurement, helping, maintaining, or counselling of or to any such Petit Treasons, Murders, or Felonies, (1) shall from henceforth be admitted to the Benefit of his or their Clergy, but utterly be excluded thereof, and suffer Death in such manner and form as they should have done for any the causes or offences abovesaid, if they were no clerks; such as be within holy orders, that is to say, of the orders of Sub-deacon or above, only except.

§ 1.
Accessories to
petit treason and
murder ousted
of clergy.

This Statute was made perpetual by 32 H. 8. c. 3. s. 7.

The Statute 25 H. 8. c. 3. s. 2. (for the preamble to which see title LARCENY and ROBBERY, I. § 2.) enacts, that every person and persons that is or hereafter shall be indicted of Petit Treason, Murder, or other Felony (2), according to the tenor and meaning of the Statute 23 H. 8. c. 1. and thereupon arraigned do stand mute of malice or froward mind, or challenge peremptorily above the number of twenty, or else will not or do not answer directly to the same Indictment and Felony whereupon he is arraigned, shall from henceforth lose the benefit and privilege of his or their clergy, in like manner and form as if he had directly pleaded to the same Petit Treason, Murther, or other Felony whereupon he is arraigned, not guilty, and thereupon had been found guilty after the Laws of the Land.

§ 2.
Extended to
such offenders
standing
mute, &c.

This Statute was also made perpetual by 32 H. 3. c. 3. s. 7.

Where any Murder or Felony hereafter shall be committed and done in one county, and another person or mo shall be accessory or accessories in any manner of wise to any such Murder or Felony in any other county; that then an indictment found or taken against such accessory and accessories upon the circumstance of such matter before the Justices of the Peace or other Justices or Commissioners to enquire of Felonies in the county where such offences of accessory or accessories in any manner of wise shall be committed or done, shall be as good and effectual in Law as if such principal offence had been committed or done within the same county where the same Indictment against such accessory shall be found; and that the Justices of Gaol Delivery or Oyer

Accessories in
one county to
murder commit-
ted in another,
may be tried
where the offence
of such accessory
took place.

1 Leon. 270.
3 Inst. 48.
2 Co. 117.
Dyer, 254.
pl. 103.

(1) } For the other offences mentioned in these Statutes see the
(2) } several appropriate titles in this work.

and Terminer, or two of them, of or in such county where the offence of such accessory shall be committed and done, upon suit to them made, shall write to the Custos Rotulor. or Keepers of the Records where such Principal shall be attainted or convicted, to certify them whether such Principal be attainted, convicted, or otherwise discharged of such principal Felony; who upon such writing to them or any of them directed, shall make sufficient certificate in writing under their seal or seals to the said Justices, whether such principal be attainted, convicted, or otherwise discharged or not; and after they that so shall have the custody of such Records do certify that such Principal is attainted, convicted, or otherwise discharged of such offence by the Law; that then the Justices of Gaol Delivery or of Oyer and Terminer, or other there authorized, shall proceed upon every such accessory in the county where such accessory or accessories became accessory, in such manner and form as if both the said principal offence and accessory had been committed and done in the said county where the offence of accessory was or shall be committed or done; and that every such accessory and other offenders above expressed shall answer upon their arraignments, and receive such trial, judgment, order, and execution, and suffer such forfeitures, pains, and penalties, as is used in other cases of Felony; any law or custom to the contrary heretofore used in anywise notwithstanding. 2, 3 Ed. 6. c. 24. s. 4.

The provisions of
33 H. 8. c. 23.
extended to
accessories
to murder.

The Statute 43 G. 3. c. 113. s. 6. (1) recites the tenor of the Statute 33 H. 8. c. 23. (2), and that "the said act, so far as the same relates to the Crime of Murder, is still in force and unrepealed, but no provision is therein made for the trial of Accessories before the fact in Murder;" and then enacts, that from henceforth all and singular the Powers and Authorities in the said recited Act contained, respecting the Offence of Murder, and the Examination of any person or persons upon any Murders by the King's Council, or three of them, and the making or issuing of Commissions of Oyer and Terminer, for the Trial, Conviction, or Delivery of Offenders, and the inquiring, hearing, and determining of all such Murders in manner therein mentioned, and all other the Clauses, Provisoes, Conditions, and Declarations concerning the Offence of Murder, and the inquiring, hearing, and determination thereof, and the Trial, Conviction, or Delivery of such Offenders therein, as in the same Act are mentioned, shall be and the same are hereby ex-

(1) } Which see under Division V. of this title.
(2) }

tended to the Offence of procuring, directing, counselling, commanding, or otherwise becoming an Accessary or Accessories before the fact to any Murder or Murders, and also to the Offence of Manslaughter, in like manner as if those Offences had been expressly mentioned in the said recited Act; and in case any Offender or Offenders shall, in pursuance of this or the said recited Act, be indicted for the Offence of Murder, and upon such Trial it shall appear that the person or persons, or any of them, so indicted and tried is or are guilty of Manslaughter, and of no greater Offence, the Jury may on such Indictment find the party or parties guilty of Manslaughter only; or in case of doubt or difficulty, may find a special Verdict, upon which there shall be the like Proceedings, Judgment, and Punishment or Execution, as if the Offence had been committed within the body of any County within this Realm, and such Trial had been had, and such general or special Verdict had been found upon an Indictment for Murder found and tried, according to the course of the Common Law, by a Jury of the same County within which the Offence was committed.

Jury upon trials under 33 H. 8. may find a special verdict.

By s. 7. the Act shall not extend to Ireland.

V. Trials in cases of Murder.

§ 1.

The Statute 33 H. 8. c. 28. (which is not repealed as to Murder by the Statute 1 & 2 P. & M. c. 10.) recites "that forasmuch as divers and sundry persons, upon great grounds of vehement suspicions as well of High Treason, Petty Treason, and Misprision of Treason, as of Murders, in many times sent for from divers Shires and places of this Realm and other the King's Dominions, to the King's Majesty's great Charges and Expences, to be examined before the King's Highness Council upon their Offences, to the intent that Conviction or Declaration of such Persons should speedily ensue, as the merits of their cases should require; and albeit that after great travel taken in the Examinations of such persons, it appear to the said Council by confession, witness, or vehement suspect, that such persons be rather guilty of such Offences whereof they be so examined than otherwise; yet nevertheless such Offenders so examined, by the course of the Common Law of this Realm, must be indicted within the Shires or places where they committed their Offences, and also tried by the Inhabitants or Freeholders of such Shires and Places, although by their confessions or sufficient witness their Offences be certainly known to the King's Council; by reason whereof, besides the travel and pains of the King's

Majesty's Council in such cases, the King's Highness is oftentimes put to great Charges and Expences in remanding such persons to the Countries where they offended, there to be indicted and tried of their Offences; and sometimes the Inhabitants and Freeholders of the Shires or places where such Offences were done, be compelled to appear out of their Shires and places for such causes, to their great Charges, for the Trial or Declaration of such Offences; and sometime, by occasion of the Charges for remanding of such Offenders to be indicted and tried by the course of the Common Law, such Offenders lie still in Prison and be forgotten, whereby many times by help of their Confederates they escape unpunished, to the great courage and evil example of evil doers;" and then enacts, that if any person or persons, being examined before the King's Council, or three of them, upon any manner of Treasons, Misprisions of Treasons, or Murders, do confess any such Offences, or that the said Council, or three of them, upon such Examination, shall think any person so examined to be vehemently suspected of any Treason, Misprisions of Treasons, or Murder, that then in every such case, by the King's Commandment, his Majesty's Commission of Oyer and Terminer, under his Highness Great Seal, shall be made by the Chancellor of England to such persons and into such Shires or places as shall be named and appointed by the King's Highness for the speedy Trial, Conviction, or Delivery of such Offenders; which Commissioners shall have Power and Authority to inquire, hear, and determine all such Treasons, Misprisions of Treasons and Murders, within the Shires and places limited by their Commission, by such good and lawful persons as shall be returned before them by the Sheriff or his Minister, or any other having power to return Writs and Process for that purpose, in whatsoever other Shire or place within the King's Dominions or without, such Offences of Treasons, Misprisions of Treasons, or Murders so examined were done or committed, and that in such cases no challenge for the Shire or Hundred shall be allowed.

Persons who, being examined before the council, confess the crime of murder, or shall be by them of the council vehemently suspected thereof, may be tried therefore in any county, by the king's commission.

1 And. 104.
3 Inst. 27.
1 Hale, P. C.
374.

Challenge allowed for want of freehold.
Savil. 57.

Trial of peers.
1 And. 107.

Provided that upon the Trial of such Treasons, Misprisions of Treasons, and Murders, the Challenge to any Juror for lack of Freehold of the yearly value of Forty shillings, shall be allowed as hath been accustomed. s. 2.

Provided also, that if any the Peers of the Realm shall happen to be indicted of any the Offences aforesaid, by virtue of any such Commission to be granted by authority of this Act, yet nevertheless they shall have their Trial by Peers in like manner

and form as heretofore hath been used, any thing in this Act contained, or any thing to be done by virtue thereof, in anywise notwithstanding. s. 3.

The Statute 43 G. 3. c. 113. (s. 6.) recites the tenor of the Statute 33 H. 8. c. 23. and that "the said Act, so far as relates to the crime of Murder, is still in force and unrepealed, but no provision is therein made for the trial of Accessories before the Fact in Murder, or for the trial of the offence of Manslaughter, either upon indictments for that offence, or for the crime of Murder, under any commission to be made or issued in pursuance of the same Act, whereby persons guilty of those offences, and more particularly when such Murders or Manslaughters happen to be committed out of the Realm, and not upon the High Seas, may frequently escape punishment, to the encouragement and evil example of evil doers;" and then enacts, that from henceforth all and singular the powers and authorities in the said last-recited Act contained respecting the offence of Murder, and the examination of any person or persons upon any Murders, by the King's Council, or three of them, and the making or issuing of Commissions of Oyer and Terminer for the trial, conviction, or delivery of offenders, and the inquiring, hearing, and determining of all such Murders in manner therein mentioned, and all other the clauses, provisoes, conditions, and declarations concerning the offence of Murder, and the inquiring, hearing, and determination thereof, and the trial, conviction, or delivery of such offenders therein, as in the same Act are mentioned, shall be and the same are hereby extended to the offence of procuring, directing, counselling, commanding, or otherwise becoming an Accessary or Accessories before the Fact to any Murder or Murders; and also to the offence of Manslaughter, in like manner as if those offences had been expressly mentioned in the said last-recited Act; and in case any offender or offenders shall, in pursuance of this or the said last-recited Act, be indicted for the offence of Murder, and upon such trial it shall appear that the person or persons or any of them so indicted and tried is or are guilty of Manslaughter, and of no greater offence, the Jury may, on such indictment, find the party or parties guilty of Manslaughter only, or in case of doubt or difficulty, may find a special verdict, upon which there shall be the like proceedings, judgment, and punishment or execution, as if the offence had been committed within the body of any county within this Realm, and such trial had been had, and such general or special verdict had been found, upon an Indictment

The provisions of 33 H. 8. c. 23. extended to Accessories to Murder, and to cases of Manslaughter.

If on a trial (under 33 H. 8. c. 23.) for Murder it shall appear to be only Manslaughter, the Jury may so find, or a special verdict.

for Murder found and tried according to the course of the Common Law by a Jury of the same county within which the offence was committed.

By s. 7. the Act shall not extend to Ireland.

Offences done upon the High Seas declared to be of the same nature, and liable to the like punishment, as if committed on the land.

By the Statute 39 G. 3. c. 37., reciting the Statute 28 H. 8. c. 15. (1), it is enacted, that all and every offence and offences which after the passing of this Act shall be committed upon the High Seas out of the body of any County of this Realm, shall be and they are hereby declared to be offences of the same nature respectively, and to be liable to the same punishments respectively, as if they had been committed upon the Shore; and shall be inquired of, heard, tried, and determined and adjudged in the same manner as Treasons, Felonies, Murthers, and Confederacies are directed to be by the same Act.

Persons convicted of Manslaughter on the High Seas, entitled to their clergy.

When any person or persons shall be tried for the crime of Murther or Manslaughter committed upon the Sea, by virtue of any Commission directed under the said Act, and shall be found guilty of Manslaughter only, such person or persons shall be entitled to receive the benefit of Clergy, in like manner, and shall be subject to the same punishment as if he or they had committed such Manslaughter in or upon the land. s. 2.

§ 2.

When a stroke or poison is given in one County, of which the party dies in another, the indictment may be found and trial had in the County where the death happens;

Where it often happeneth and cometh in ure in sundry Counties of this Realm, that a man is feloniously stricken in one County, and after dieth in another County, in which case it hath not been founden by the Laws of this Realm, that any sufficient indictment thereof can be taken in any of the said two Counties, for that by the custom of the Realm the Jurors of the County where such party died of such stroke, can take no knowledge of the said stroke being in a foreign County, although the same two Counties and places adjoin very near together, ne the Jurors of the County where the stroke was given cannot take knowledge of the death in another County, although such death most apparently come of the same stroke; for redress whereof, be it enacted, that where any person or persons hereafter shall be feloniously stricken or poisoned in one County, and die of the same Stroke or Poisoning in another County, that then an Indictment thereof, founden by Jurors of the County where the Death shall happen, whether it shall be founden before the Coroner upon the sight of such dead body, or before the Justices of Peace or other Justices or Commissioners which shall have authority to enquire of such offences, shall be as good and effectual in the

(1) See these Acts also under title *PIRACY*, l. § 6.

Law, as if the Stroke or Poisoning had been committed and done in the same County where the party shall die, or where such Indictment shall be so founden; any Law or Usage to the contrary notwithstanding. 2, 3 Ed. 6. c. 24. s. 2.

Justices of Gaol Delivery and Oyer and Terminer in the same County where such Indictment is taken, and also the Justices of the King's Bench after such Indictment shall be removed before them, shall proceed upon the same in all points as they should or ought to do in case such felonious Stroke and Death thereby ensuing, or Poisoning and Death thereof ensuing, had grown all in one and the same County. s. 3.

and all usual proceedings shall be had thereon.

Accessaries to Murder may be tried in the County where the offence of Accessary was done; and every such Accessary and other Offenders above expressed shall answer upon their arraignments, and receive such Trial, Judgment, Order, and Execution, and suffer such Forfeitures, Pains and Penalties, as is used in other cases of Felony. s. 4. See division IV. of this title.

For preventing any failure of Justice, and taking away all doubts touching the Trial of Murders in the cases herein-after mentioned, be it enacted, that where any Person, at any time after the 24th day of June 1729, shall be feloniously Stricken or Poisoned upon the Sea, or at any Place out of that part of the Kingdom of Great Britain called England, and shall die of the same Stroke or Poisoning within that part of the Kingdom of Great Britain called England; or where any person, at any time after the 24th June 1729, shall be feloniously Stricken or Poisoned at any place within that part of Great Britain called England, and shall die of the same Stroke or Poisoning upon the Sea, or at any place out of that part of the Kingdom of Great Britain called England; in either of the said cases, an Indictment thereof found by the Jurors of the County, in that part of the Kingdom of Great Britain called England, in which such Death, Stroke, or Poisoning shall happen respectively as aforesaid, whether it shall be found before the Coroner upon the view of such dead Body, or before the Justices of the Peace, or other Justices, or Commissioners, who shall have authority to inquire of Murders, shall be as good and effectual in the Law, as well against the principals in any such Murder, as the Accessaries thereunto, as if such felonious Stroke, and Death thereby ensuing, or Poisoning and Death thereby ensuing, and the offence of such Accessaries, had happened in the same County where such Indictment shall be found; and that the Justices of Gaol Delivery and Oyer and Terminer, in the same County where such Indictment shall be found, and also any superior Court, in case such In-

§ 3.

Where persons are feloniously stricken or poisoned upon the Sea, or in any place out of England, and dying thereof in England, and an indictment found by Jurors of the country in which the death, stroke or poisoning shall happen, shall be good against principals and accessaries.

Justices of Gaol Delivery for the County where such indictment is found, shall proceed thereon;

and offender shall answer and receive the like trial, &c. as if the stroke or poisoning and death had happened in the County where the indictment was found.

dictment shall be removed into such superior Court, shall and may proceed upon the same in all points, as well against the Principals in any such Murder, as the Accessories thereto, as they might or ought to do in case such felonious Stroke and Death thereby ensuing, or Poisoning and Death thereby ensuing, and the offence of such Accessories, had happened in the same County where such Indictment shall be found; and that every such Offender, as well Principal as Accessary, shall answer upon their Arraignments, and have the like Defences, Advantages, and Exceptions (except challenges for the hundred), and shall receive the like Trial, Judgment, Order, and Execution, and suffer such Forfeitures, Pains, and Penalties, as they ought to do, if such felonious Stroke and Death thereby ensuing, or Poisoning and Death thereby ensuing, and the offence of such Accessories, had happened in the same County where such Indictment shall be found. 2 Geo. 2. c. 21.

§ 4.
Inquests in Homicide shall be taken by lawful men, of whom two shall be knights.

And forasmuch as many being indicted of Murther and culpable of the same, by favourable Inquests taken by the Sheriff, and by the King's Writ of Odio & Atia, be replevied unto the coming of the Justices in Eyre; it is provided that from henceforth such Inquests shall be taken by lawful men chosen out by oath, (of whom two at the least shall be Knights) which by no affinity with the Prisoners nor otherwise are to be suspected. 3 Ed. 1. c. 11.

§ 5.
Qualification of Jurors in trial of Felonies in Towns Corporate, &c.

Every Person, being a natural born subject, which doth enjoy and use the Liberties and Privileges of any City, Borough, or Town Corporate, where he dwelleth and maketh his abode, being worth in moveable Goods and Substance to the clear value of Forty Pounds, shall be admitted in Trials of Murders and Felonies, in every Sessions and Gaol Delivery, to be kept and holden in and for the Liberty of such Cities, Boroughs and Towns Corporate, albeit they have no Freehold. 28 H. 8. c. 13.

Not to extend to Knights or Esquires. s. 2.

VI. *Judgment in Murder.*

§ 1.
Murderers shall be executed the next day but one after sentence;

Whereas the horrid Crime of Murder has of late been more frequently perpetrated than formerly, and particularly in and near the Metropolis of this Kingdom, contrary to the known humanity and natural genius of the British Nation; and it is thereby become necessary, that some further terror and peculiar mark of Infamy be added to the Punishment of Death, now by Law inflicted on such as shall be guilty of the said heinous Offence; be it therefore enacted, that from and after the First

Day of Easter Term 1752, all persons who shall be found guilty of wilful Murder, be executed according to Law on the Day next but one after Sentence passed, unless the same shall happen to be the Lord's Day, commonly called Sunday, and in that case on the Monday following. 25 G. 2. c. 37. s. 1.

And be it further enacted, that the Body of such Murderer and their bodies be anatomized. so convicted shall, if such Conviction and Execution shall be in the County of Middlesex, or within the City of London or the Liberties thereof, be immediately conveyed by the Sheriff or Sheriffs, his or their Deputy or Deputies, and his or their Officers, to the Hall of the Surgeons Company, or such other Place as the said Company shall appoint for this purpose, and be delivered to such person as the said Company shall depute or appoint, who shall give to the Sheriff or Sheriffs, his or their Deputy or Deputies, a Receipt for the same; and the Body so delivered to the said Company of Surgeons shall be dissected and anatomized by the said Surgeons, or such person as they shall appoint for that purpose; and in case such Conviction and Execution shall happen to be in any other County or other Place in Great Britain, then the Judge or Justice of Assize or other proper Judge, shall award the Sentence to be put in Execution the next Day but one after such Conviction (except as is before excepted), and the Body of such Murderer shall in like manner be delivered by the Sheriff or his Deputy and his Officers to such Surgeon, as such Judge or Justice shall direct, for the purpose aforesaid. s. 2.

And be it further enacted, that Sentence shall be pronounced in open Court immediately after the Conviction of such Murderer, and before the Court shall proceed to any other business, unless the Court shall see reasonable cause for postponing the same: in which Sentence shall be expressed not only the usual Judgment of Death, but also the time appointed hereby for the Execution thereof, and the marks of Infamy hereby directed for such Offenders, in order to impress a just horror in the mind of the Offender, and on the minds of such as shall be present, of the heinous Crime of Murder. s. 3. Sentence shall be pronounced immediately. What that sentence shall contain.

Provided always, that after such Sentence pronounced as aforesaid, in case there shall appear reasonable cause, it shall and may be lawful to and for such Judge or Justice before whom such Criminal shall have been so tried, to stay the Execution of the Sentence at the discretion of such Judge or Justice, regard being always had to the true intent and purpose of this Act. s. 4. The Judge, for reasonable cause, may stay the Execution;

and direct the body to be hung in Chains, in lieu of being anatomized.

The body shall not be buried.

The Criminal, after conviction, shall be kept in a cell apart from others;

and none to have access to him but by leave of the Judge, &c.

The Judge, &c. may, upon a Respite, relax the restraints.

Convict shall be fed with Bread and Water only;

except in case of violent sickness or wound.

Provided also, that it shall be in the Power of any such Judge or Justice to appoint the Body of any such Criminal to be hung in Chains; but that in no case whatsoever the Body of any Murderer shall be suffered to be buried, unless after such Body shall have been dissected and anatomized as aforesaid; and every such Judge or Justice shall and is hereby required to direct the same either to be disposed of as aforesaid to be anatomized, or to be hung in Chains, in the same manner as is now practised for the most atrocious Offences. s. 5.

And be it further enacted, that from and after such Conviction and Judgement given thereupon, the Gaoler or Keeper to whom such Criminal shall be delivered for safe Custody, shall confine such Prisoner to some Cell or other proper and safe place within the Prison, separate and apart from the other Prisoners; and that no person or persons whatsoever, except the Gaoler or Keeper or his Servants, shall have access to any such Prisoner, without Licence being first obtained for that purpose, under the Hand of such Judge or Justice before whom such Offender shall have been tried, or under the Hand of the Sheriff, his Deputy or Under Sheriff. s. 6.

Provided always, that in any case any such Judge or Justice shall see cause to respite the Execution of such Offender so condemned as aforesaid, such Judge or Justice may relax or release any or all of the Restraints or Regulations herein-before or herein-after directed to be observed by the Gaoler or Keeper of the Prison where such Prisoner shall be confined, by any Licence in Writing, signed by such Judge or Justice for that purpose, for and during the time of such stay of Execution, any thing herein-before contained to the contrary thereof notwithstanding. s. 7.

After sentence passed as aforesaid, and until the execution thereof, such offender shall be fed with bread and water only, and with no other food or liquor whatsoever (except in case of receiving the Sacrament of the Lord's Supper, and except in case of any violent sickness or wound, in which case some known Physician, Surgeon, or Apothecary may be admitted by the Gaoler or Keeper of the said Prison to administer necessities; the christian and surname of such Physician, Surgeon, or Apothecary, and his place of abode, being first entered in the books of such Prison or Gaol, there to remain); and in case such Gaoler or Prison Keeper shall offend against or neglect to put in execution any of the directions or regulations hereby enacted

to be observed, such Gaoler or Prison Keeper shall for such offence forfeit his office, and be fined in the sum of Twenty Pounds, and suffer imprisonment until the same be paid. s. 8.

If any person or persons whatsoever shall by force set at liberty, or rescue or attempt to rescue or set at liberty, any person out of Prison, who shall be committed for or found guilty of Murder, or rescue or attempt to rescue any person convicted of Murder going to Execution or during Execution, every person so offending shall be deemed, taken, and adjudged to be guilty of Felony, and shall suffer Death without Benefit of Clergy. s. 9.

§ 2.
Persons rescuing, or attempting to rescue such Convict, shall be guilty of Felony, without clergy.

If any person or persons whatsoever shall, after such Execution had, by force rescue or attempt to rescue the body of such offender out of the custody of the Sheriff or his officers during the conveyance of such body to any of the places hereby directed, or shall by force rescue or attempt to rescue such body from the Company of Surgeons or their officers or servants, or from the house of any Surgeon where the same shall have been deposited in pursuance of this Act, every person so offending shall be deemed and adjudged to be guilty of Felony, and shall be liable to be transported to some of his Majesty's Colonies or Plantations in America for the term of Seven Years, in like manner as is directed by the laws now in force relating to the Transportation of Felons, and shall be subject to the like punishment and methods of conviction in case of returning into or being found at large within Great Britain within the said term of Seven Years, in all respects, as by law other Felons are subject to in case of unlawfully returning from Transportation. s. 10.

§ 3.
Persons rescuing, or attempting to rescue the Body of such executed Convict, shall be guilty of Felony, and be transported for seven years;

and returning, shall suffer death.

Nothing herein contained shall extend to repeal or alter so much of 11 G. 1. c. 26. as relates to the suspension of the Execution of persons convicted of capital offences within Scotland for the respective times in the said Act mentioned. s. 11.

This act not to alter 11 G. 1. c. 26.

VII. Forfeiture in Homicide.

The Statute 24 H. 8. c. 5. reciting that it had been in question and ambiguity if any person did attempt feloniously to rob or murder any person in or nigh any common highway, &c. or in their mansions, &c. or that feloniously attempted to break any dwelling house in the night time, should happen in such their felonious intent, to be slain by the person so attempted to be robbed or

Persons killing offenders attempting to rob or murder, or break into houses, shall not forfeit therefore.

3 Inst. 56. 63.
220.
Bract. 144, b.
1 Anders. 41.
Cro. Car. 544.

murdered, or by any person being in their dwelling house, so attempted to be burglariously broken, he should forfeit his goods and chattels as any other person should do that by chance-medley killed another in his defence, declares and enacts, that if any person hereafter be indicted or appealed of the Death of any such person attempting to murder, rob, or burglarily to break mansion-houses, that the person so indicted or appealed, and of the same by verdict so found and tried, shall not forfeit or lose any lands, tenements, goods, or chattels for the Death of any such person so slain, but shall be thereof fully acquitted and discharged, as if they were lawfully acquitted of the Death of such person.

Hopbinds.

Persons maliciously cutting Hopbinds, declared guilty of Felony, without clergy.

If any person or persons, from and after 24th June 1733, shall, during the continuance of 9 G. 1. c. 22. (which is made perpetual by 31 G. 2. c. 42.) unlawfully and maliciously cut any Hopbinds growing on Poles in any Plantation of Hops, every person or persons so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony, and shall suffer Death as in cases of Felony, without Benefit of Clergy. 6 G. 2. c. 37. s. 6. Continued during the continuance of 9 G. 1. c. 22. by 10 G. 2. c. 32. s. 3. Made perpetual by 31 G. 2. c. 42. s. 4.

Provisions and powers of 9 G. 1. c. 22. extended to cases of offences committed by cutting Hopbinds.

All the Provisions made in the Act 9 G. 1. c. 22. for the more speedy and easy bringing the Offenders against the said Act to Justice, and the persons who shall conceal, aid, abet, or succour such Offenders, and for making satisfaction and amends to all and every the person and persons, their executors and administrators, for the Damages they shall have sustained or suffered by any Offender or Offenders against the said Act, and for the encouragement of persons to apprehend and secure such Offender and Offenders, and for the better and more impartial Trial of any Indictment or Information which shall be found, commenced, or prosecuted for any of the Offences committed against the said Act, together with all restrictions, limitations, and mitigations by the said Act directed, shall, during the continuance of the said Act, extend to and be of force and effect in all cases of Offences committed by unlawfully and maliciously cutting any Hopbinds growing on Poles in any Plantation of Hops. 10 G. 2. c. 32. s. 4.

Housebreaking (IMPLEMENTS).

The Statute 23 G. 3. c. 88. intituled "An Act to extend the Provisions of an Act [17 G. 2. c. 5.] to certain cases not therein mentioned," reciting that "divers evil disposed persons are frequently apprehended, having upon them Implements for Housebreaking or offensive Weapons, or are found in or upon Houses, Warehouses, Coach-houses, Stables, or Out-houses, Areas of Houses, inclosed Yards or Gardens belonging to House, with intent to commit Felonies; and although their evil purposes are thereby manifested, the power of his Majesty's Justices of the Peace to demand of them Sureties for their good behaviour hath not been of sufficient effect to prevent them from carrying their evil purposes into execution;" enacts, that if any person or persons shall, after 1st August 1783, be apprehended having upon him, her, or them, any Picklock Key, Crow, Jack, Bit, or other Implement, with an intent feloniously to break and enter into any Dwelling House, Warehouse, Coach-house, Stable, or Out-house; or shall have upon him, her, or them, any Pistol, Hanger, Cutlass, Bludgeon, or other offensive Weapon, with intent feloniously to assault any person or persons; or shall be found in or upon any Dwelling House, Warehouse, Coach-house, Stable, or Out-house, or in any inclosed Yard or Garden, or Area belonging to any House, with an intent to steal any Goods or Chattels, every such person or persons shall be deemed a Rogue and Vagabond, within the intent and meaning of the Statute 17 G. 2. c. 5.

Persons apprehended with Implements for Housebreaking, or any offensive weapon, or being found in any inclosed yard or area, or upon any dwelling house, &c.;

shall be deemed rogues and vagabonds, under 17 G. 2. c. 5.

Hue and Cry.

Forasmuch as the Peace of this Realm hath been evil observed heretofore, for lack of quick and fresh Suit making after Felons in due manner, and namely, because of Franchises, where Felons are received; it is provided, that all generally be ready and apparelled at the Commandments and Summons of Sheriffs, and at the Cry of the Country, to sue and arrest Felons, when any need is, as well within Franchise as without, and they that will not so do, and thereof be attainted, shall make a grievous fine to the King; and if default be found in the Lord of the Franchise, the King shall take the same Franchise to himself; and if default be in the Bailiff, he shall have One Year's Imprisonment, and after shall make a grievous Fine, and if he have not whereof, he shall have Imprisonment of Two

All persons shall follow the Hue and Cry.

Punishment of persons neglecting.

Years; and if the Sheriff, Coroner, or any other Bailiff, within such Franchise or without, for Reward, or for Prayer, or for Fear, or for any manner of Affinity, conceal, consent or procure to conceal, the Felonies done in their Liberties, or otherwise will not attach nor arrest such Felons there as they may, or otherwise will not do their Office for favour born to such misdoers, and be attainted thereof, they shall have One Year's Imprisonment, and after make a grievous Fine at the King's pleasure, if they have wherewith; and if they they have not whereof, they shall have Imprisonment of Three Years. 3 Edw. 1. c. 9.

1 Vent. 118.
Fresh pursuit
shall be made
after Felons.

Dyer, 370.

Co. Pla. 348.
351.
Rast. 406.

Offenders shall
be attainted by
Inquests.

27 El. c. 13.
Rast. 406.
39 El. c. 25.
Cro. El. 142.
270. 753.
Bro. Debt. 103.
Golds. 58. 16.

Forasmuch as from Day to Day, Robberies, Murthers, Burnings, and Theft, be more often used than they have been heretofore, and Felons cannot be attainted by the Oath of Jurors, which had rather suffer Strangers to be robbed, and so pass without Pain, than to indite the Offenders, of whom great part be people of the same Country, or at the least if the Offenders be of another Country, the Receivers be of Places near, and they do the same, because an Oath is not given unto Jurors of the same Country where such Felonies were done, and to the restitution of Damages, hitherto no pain hath been limited for their concealment and Laches; Our Lord the King, for to abate the Power of Felons, hath established a Pain in this case, so that from henceforth, for fear of the Pain more than for fear of any Oath, they shall not spare any, nor conceal any Felonies; and doth command that Cries shall be solcmly made in all Counties, Hundreds, Markets, Fairs, and all other Places where great resort of People is, so that none shall excuse himself by ignorance, that from henceforth every Country be so well kept that immediately, upon such Robberies and Felonies committed, fresh Suit shall be made from Town to Town, and from Country to Country. 13 Edw. 1. st. 2. c. 1.

Likewise, when need requires, Inquests shall be made in Towns by him that is Lord of the Town, and after in the Hundred, and after in the Franchise, and in the County, and sometime in Two, Three, or Four Counties, in case where Felonies shall be committed in the Marches of Shires, so that the Offenders may be attainted; and if the Country will not answer for the Bodies of such manner of Offenders, the pain shall be such, that every Country, that is, to wit, the People dwelling in the Country, shall be answerable for the Robberies done, and also the damages, so that the whole Hundred where the Robbery shall be done, with the Franchises, being within the Precinct

of the same Hundred, shall be answerable for the Robberies done; and if the Robbery be done in the Division of Two Hundreds, both the Hundreds, and the Franchises within them, shall be answerable; and after that the Felony or Robbery is done, the Country shall have no longer space than Forty Days, within which Forty Days it shall behove them to agree for the Robbery or Offence, or else that they will answer for the Bodies of the Offenders. 13 Edw. 1. st. 2. c. 2.

Item, because that great clamour and grievous complaints be made, as well by Aliens as by Denizens, that Merchants and other passing through the Realm of England with their Merchandizes and other Goods, be slain and robbed, and namely now more than they were wont, whereof remedy hath not been made to the complaints, "Our Lord the King considering the Profit which may come to the said Realm by coming and abiding of the said Merchants Aliens in the same Realm, and the damage and mischief which to them and other is done daily by such Manslaughters and Robberies, and willing to provide for the surety and indemnity of Merchants and other aforesaid, hath ordained and established, by the assent of all his Parliament, to the intent that Merchants Aliens shall have the greater will and courage to come into the said Realm of England, and that remedy from henceforth be speedily made to such Merchants and other robbed, according to the form contained in the Statute late made at Winchester; that is to say, that solemn Cry be made in all Counties, Hundreds, Markets, Fairs, and all other Places, where solemn Assembly of the People shall be, so that none by ignorance shall excuse him, that every Country from henceforth be so kept, that immediately after Felonies and Robberies done, fresh Suit be made from Town to Town and from Country to Country, and Inquest, if need be, shall be also taken in the Towns, by him which is Sovereign of the Town, and after in Hundreds, Franchises, and in the County, and sometime in Two, Three, or Four Counties, in case where Felonies shall be done in the Marches of the Counties, so that the Offenders may be attainted; and if the County do not answer of such Offenders, the pain shall be such that every Country, that is to say, the People dwelling in the Country, shall answer of the Robberies done, and of the Damages; so that all the Hundred where the Robbery shall be done, or the Franchises which be within the Precinct of the same Hundred, shall answer of the Robbery done, and if the Robbery be done in the Division of Two

Proclamation shall be made in counties, towns, fairs, &c. that persons shall follow Hue and Cry.

The Counties shall answer for Robberies.

Hundreds, both Hundreds shall answer, together with the Franchises; and longer term shall not the Country have, after the Robbery or Felony done, than Forty Days, within which them behoveth to make gree of the Robbery, or of the Offence, or that they answer of the Bodies of the Offenders. 28 Edw. 3. c. 11.

The Inhabitants of Hundreds, where fresh suit shall not be made, shall answer half damages, to be sued for in the name of the Clerk of the Peace.

2 Hawk. P.C. 75.
Bac. v. 3. p. 65.
Hob. 246.

The Inhabitants and Resiants of Hundreds, with the Franchise within the Precinct thereof, wherein negligence of pursuit and fresh suit after Hue and Cry made shall be, shall answer and satisfy one half of the Money and Damages, as by force of 13 Ed. 1. st. 2. c. 1. and 28 Ed. 3. c. 11., shall be recovered against such Hundred, with the Franchises therein, in which any Robbery or Felony shall be committed; such Money to be recovered by Action of Debt, &c., in the name of the Clerk of the Peace of the County where such Robbery shall be. 27 Eliz. c. 13. s. 2.

The Death of the Clerk of the Peace shall not discontinue such Action, &c. s. 3.

After execution the towns, &c. shall be rateably and proportionably taxed by two Justices;

After Execution of Damages by the party robbed, two Justices of Peace (one to be of the Quorum) of the County, inhabiting in the said Hundred, or near to the same, where such Execution shall be had to assess and tax rateably and proportionably all the Towns, Parishes, &c., as well of the Hundred where such Robbery was committed as of Liberties within such Hundred, towards an equal Contribution to be made for the relief of the Inhabitants against whom the party robbed had his Execution; and after such Contribution made, the Constables, &c. of every Town, Parish, &c. shall tax and assess rateably and proportionably every Inhabitant and Dweller in every such Town, &c. towards the Payment thereof; and if any Inhabitant refuse to pay the same, such Constables, &c. may distrain the person so refusing by his Goods and Chattels, and sell the Distress, and retain the Money to the use aforesaid, returning the Overplus to the person distrained. s. 5.

and on refusal to pay, may be levied by distress.

Constables shall collect the money; and pay same to the Justices.

Constables, &c. shall within ten days after the Money is collected deliver the same to the said Justices, who shall deliver same to the Inhabitants. s. 6.

Where one offender out of several shall be apprehended, the hundred shall not incur any penalty.
Marsh, 10. 11.
1 Sid. 11.

The same Taxation shall take place in the Hundreds where there was a Default of Pursuit, for the like benefit of the Inhabitants. s. 7.

Where any Robbery shall be committed by two or more Malefactors, and one of them shall be apprehended by Hue and Cry, the Hundred or Franchise shall not incur any Penalty, although the other Malefactors escape. s. 8.

No Hue and Cry or Pursuit hereafter to be done or made by the Country, or Inhabitants of any Hundred, shall be allowed and taken to be a lawful Hue and Cry or Pursuit after such Felons or Offenders, except it be done and made by Horsemen and Footmen. 27 Eliz. c. 13. s. 9.

Hue and Cry shall be by horse and foot.

No person robbed shall maintain any Action, except such person shall, with as much convenient speed as may be, give Notice of such Felony or Robbery to some of the Inhabitants of some Town, Village, &c. near the place where it was committed, nor shall bring any Action therefore except they shall, within twenty days before such Action brought, be examined upon Oath before some Justice of Peace of the County where the Robbery was committed, whether he knew the parties committing the Robbery; and if he confess he knew the party, then he shall enter into Bond or Recognizance before such Justice, effectually to prosecute such person by Indictment, &c. s. 11.

Persons robbed shall inform some inhabitant of the town near to where it took place;
Cro. Jac. 675.
3 Mod. 287.
and be examined before a magistrate;
and if offender be known, become bound to prosecute him.
Coke, Entr. 348.
Rast. 406.
Cro. Eliz. 142.
Cro. Car. 26. 37.
2 Salk. 614.
Cleft. Ent. 378.

Hunting.

Item, forasmuch as before this time divers Ordinances and Statutes have been made in divers Parliaments for the punishment of inordinate and unlawful Huntings in Forests, Parks, and in Warrens within the said Realm, which Statutes and Ordinances notwithstanding, divers persons in great numbers, some with painted faces, some with visors and otherwise disguised, to the intent they should not be known, riotously and in manner of war arrayed, have oftentimes of late hunted, as well by night as by day, in divers Forests, Parks, and Warrens in divers places of this Realm, and especially in the Counties of Kent, Surry, and Sussex, by colour whereof have ensued in times past great and heinous rebellions, insurrections, riots, robberies, murders, and other inconveniences, to the provocation and ensample of riotous and evil disposed persons of this Realm in so offending, which offenders could not be punished before this time, according to the said Statutes, Ordinances, and Laws of this said Realm, because that the said misdoers, by reason of their painted faces, visors, and other disguisings, could not be known; the King, &c. ordaineth, that at every such time as information shall be made of any such unlawful Huntings by night, or with painted faces, hereafter to be done, to any of the King's Counsel, or to any of the Justices of the King's Peace of the County where any such Hunting shall be had, of any person to be suspect thereof, that then it shall be lawful to any of the same Counsel or Justices

2 Roll. 120. 133.
3 Inst. 75.
Co. Litt. 370.

Penalty for hunting in the night, or with disguise, and to deny it being examined.

Penalty on offenders concealing their aiders.

An offender confessing, shall be only guilty of trespass.

Rescous of an offender, Felony.

Offences made Felony by this act shall incur all the pains of Felony.

of Peace to whom any such Information shall be made, to make a warrant to the Sheriff of such County, or to any Constable, Bailiff, or other Officer within the same County, to take and arrest the same person or persons of whom any such Information shall be made, and to have him or them afore the maker of any such warrant, or any other the King's said Counsel, or Justice of his Peace of the same County; and that the said Counsellor or Justice of Peace afore whom such person or persons shall be brought, by his discretion, have power to examine him or them so brought afore the said Counsellor or Justice, of the said Hunting, and of the said doers in that behalf; and if the same person wilfully conceal the said Huntings, or any person with him defective therein, that then the same concealment be against every such person so concealing, Felony, and the same Felony to be inquired of and determined as other Felonies within this Realm have used to be; and if he then confess the truth, and all that he shall be examined of and knoweth in that behalf, that then the said offences of Huntings by him done be against the King our Sovereign Lord but trespass finable, by reason of the same confession, at the next General Sessions of the Peace to be holden in the same County by the King's Justices of the same Sessions, there to be sessed; and if any rescous or disobedysance be made to any person having authority to do execution or justice by any such warrant, by any person, the which so should be arrested, so that the execution of the same warrant thereby be not had, that then the same rescous and disobedysance be Felony, enquirable and determinable as is aforesaid. And over this it is enacted and established, that if any person or persons hereafter be convicted of any such Huntings with painted faces, visors, or otherwise disguised, to the intent they should not be known, or of unlawful Hunting in time of night, that then the same person or persons so convict to have like punition as he or they should have if he or they were convict of Felony. 1 H. 7. c. 7.

Jeofails.

The Statutes of Jeofails extended to forms in English.

By Stat. 4 G. 2. c. 26. it is enacted and declared, that all and every Statute and Statutes for the reformation and amending the delays arising from any Jeofails whatever, shall and may extend to all and every form and forms, and to all proceedings in Courts of Justice (except in criminal cases,) when the forms

and proceedings are in English; and that all and every error and mistake whatsoever, which would or might be amended and remedied by any Statute of Jeofails, if the proceedings had been in Latin, all such errors and mistakes of the same and like nature, when the forms are in English, shall be deemed and are hereby declared to be amended and remedied by the Statutes now in force for the amendment of any Jeofails; and this clause shall be taken and construed in all Courts of Justice in the most ample and beneficial manner for the ease and benefit of the parties, and to prevent frivolous and vexation delays. s. 4.

Inclosures.

Persons throwing down any Inclosure in the Night-time are, by 22, 23 Car. 2. c. 7. s. 5. made liable to an action of trespass or upon the case for treble damages to the party injured.

For the more effectually preventing the destroying Fences made or to be made for inclosing Lands by virtue of Acts of Parliament, be it enacted, that if any person or persons shall at any time after 1st July 1769 wilfully or maliciously set fire to, burn, demolish, pull down, or otherwise destroy or damage any Fence or Fences that are or shall be erected, set up, provided, or made, for dividing or inclosing any Common, Waste, or other Lands or Grounds, in pursuance of any Act or Acts of Parliament, every such person being lawfully convicted of any or either of the said several offences, or of causing or procuring the same to be done, shall be adjudged guilty of felony, and shall be subject to the like pains and penalties as in cases of Felony; and the Court by or before whom such person shall be tried, shall have power and authority to transport such felon for the term of Seven Years, in like manner as other felons are directed to be transported by the Laws and Statutes of this Realm. 9 G. 3. c. 29. s. 3.

Persons damaging fences of lands inclosed under any Act of Parliament;

shall be guilty of felony.

By s. 4. no person or persons shall be prosecuted by virtue of this Act, for any offence or offences committed contrary to the same, unless such prosecution be commenced within eighteen months after the offence committed.

Limitation of prosecution.

By Statute 16 G. 3. c. 30. s. 8. if any person or persons shall at any time wilfully pull down or destroy, or cause to be wilfully pulled down or destroyed, the Pale or Pales, or any part of the Walls of any Forest, Chace, Purlieu, Ancient Walk, Park, Paddock, Wood, or other Ground where any red or fallow deer

£30 penalty on persons pulling, &c. pales of any forest or park.

shall be then kept, without the consent of the owner or person chiefly intrusted with the custody thereof, or being otherwise duly authorized, every person so offending shall be subject unto the forfeiture and penalty hereby inflicted for the first offence of killing of any Deer. (1)

Indictment.

(And see title ENGLISH LANGUAGE.)

3 Inst. 41. 204.
The words Jurisdiccions, &c. shall not be inserted in Indictments.

The words and terms *Insidiatores viarum & Depopulatores agrorum* shall not be from henceforth used or put in Indictments, Arraignments, Appeals, or other Impeachments; If clerks are indicted, &c. and the Indictment, &c. contains the effect of those words, yet they shall enjoy their privilege. 4 H. 4. c. 2.

Indictments shall be good without the words, *vi et armis*, &c.

Be it enacted, that these words *Vi et armis, viz. cum baculis, cultellis, arcubus et sagittis*, or such other like, shall not, of necessity, be put or comprised in any Indictment or Inquisition, nor that the party being hereafter indicted of any offence, shall have any advantage by writ of error, plea, or otherwise, to adnul or avoid any such Inquisition or Indictment for that the said words, or any of the same or like words, shall not be comprised in the said Inquisitions or Indictments, but that the same, lacking the same words or any of them, shall be adjudged to all intents as effectual in the Law as the same Inquisitions and Indictments having such words were or heretofore have been adjudged. 37 H. 8. c. 8. s. 2.

Two shillings only shall be taken for an Indictment for Felony.

No Clerk of Assise, Clerk of the Peace, or other Person whatsoever, shall demand or receive more than two shillings for the drawing any Bill of Indictment against any Felon, upon the pain of forfeiting to the Person aggrieved, for every such offence, the sum of Five Pounds with full Costs of Suit. 10, 11 W. 3. c. 23. s. 7.

Clerks drawing defective Indictments shall draw new Bills without fee.

And whereas it often happens that Clerks of Assise, Clerks of the Crown, Clerks of the Peace, Clerks of the Indictments, or other proper Officers, their Clerks or Deputies, do draw Bills defective; be it enacted, that if any Clerk of Assise, Clerk of the Crown, Clerk of the Peace, Clerk of the Indictments, or other proper Officer, or their Clerks or Deputies, shall draw any Bill defective, they shall draw new Bills, without demanding

(1) §30. See s. 1. of the Act, under title GAME.

any Fee or Reward whatsoever, or forfeit the sum of Five Pounds, with full Costs of Suit; and that all the Forfeitures aforesaid shall be recovered by him, her, or them that will sue for the same by action of debt, &c. in any Court of Record. 10, 11 W. 3. c. 23. s. 8.

Inquisitions.

Nothing from henceforth shall be given for a Writ of Inquisition, nor taken of him that prayeth Inquisition of Life, or of Member, but it shall be granted freely and not denied. 9 H. 3. c. 26.

Nothing shall be paid for Inquisitions.

Insane Offenders.

The Statute 39, 40 G. 3. c. 94. "for the safe Custody of Insane Persons charged with Offences," recites that "Persons charged with High Treason, Murder, or Felony, may have been or may be of unsound mind at the time of committing the offence wherewith they may have been or shall be charged, and by reason of such Insanity may have been or may be found not guilty of such Offence, and it may be dangerous to permit Persons so acquitted to go at large;" and enacts, that in all cases where it shall be given in evidence upon the trial of any Person charged with Treason, Murder, or Felony, that such Person was Insane at the time of the commission of such offence, and such Person shall be acquitted, the Jury shall be required to find specially whether such Person was insane at the time of the commission of such offence, and to declare whether such Person was acquitted by them on account of such Insanity; and if they shall find that such Person was insane at the time of the committing such Offence, the Court before whom such Trial shall be had, shall order such Person to be kept in strict Custody, in such place and in such manner as to the Court shall seem fit, until his Majesty's Pleasure shall be known; and it shall thereupon be lawful for his Majesty to give such order for the safe custody of such Person, during his Pleasure, in such place and in such manner as to his Majesty shall seem fit; and in all cases where any Person, before the passing of this Act, has been acquitted of any such offences on the ground of Insanity at the time of the commission thereof, and has been detained in custody as a dangerous Person by order of the Court before whom such Person has been tried, and still remains in custody, it shall be lawful for his Majesty to give the like order for the

The Jury, in case of any person charged with Treason, &c. proving to be insane, to declare whether he was acquitted by them on account of Insanity, and the Court shall order him to be kept in custody till his Majesty's pleasure be known, &c.

See Statute 56 G. 3. c. 127. post, p. 380.

safe custody of such Person, during his Pleasure, as his Majesty is hereby enabled to give in the cases of Persons who shall hereafter be acquitted on the ground of Insanity. See s. 27 of Statute 48 G. 3. c. 96. post, p. 377.

Persons indicted for any offence, and upon arraignment found to be insane, or if upon trial they shall be so found, &c. the Court shall order them to be kept in custody till his Majesty's pleasure be known.

See Stat. 56 G. 3. c. 127. post, p. 380.

If any Person indicted for any offence shall be insane, and shall upon Arraignment be found so to be by a Jury lawfully impannelled for that Purpose, so that such Person cannot be tried upon such Indictment, or if upon the Trial of any Person so indicted such Person shall appear to the Jury charged with such Indictment to be insane, it shall be lawful for the Court before whom any such Person shall be brought to be arraigned or tried as aforesaid, to direct such Finding to be recorded, and thereupon to order such Person to be kept in strict custody until his Majesty's Pleasure shall be known; and if any Person charged with any offence shall be brought before any Court to be discharged for want of Prosecution, and such Person shall appear to be insane, it shall be lawful for such Court to order a Jury to be impannelled to try the Sanity of such Person; and if the Jury so impannelled shall find such Person to be insane, it shall be lawful for such Court to order such Person to be kept in strict custody, in such place and in such manner as to such Court shall seem fit, until his Majesty's Pleasure shall be known; and in all cases of Insanity so found, it shall be lawful for his Majesty to give such order for the safe custody of such Person so found to be insane, during his Pleasure, in such Place and in such manner as to his Majesty shall seem fit. s. 2. See s. 27 of statute 48 G. 3. c. 96. post, p. 377.

Persons committed by any Justice on account of being dangerous and insane, shall not be bailed except by two Justices, &c.

And for the better Prevention of Crimes being committed by Persons Insane, be it further enacted, that if any Person shall be discovered and apprehended under Circumstances that denote a Derangement of Mind, and a Purpose of committing some Crime, for which, if committed, such Person would be liable to be indicted, and any of his Majesty's Justices of the Peace before whom such Person may be brought shall think fit to issue a Warrant for committing him or her as a dangerous Person suspected to be insane, such Cause of Commitment being plainly expressed in the Warrant, the Person so committed shall not be bailed except by Two Justices of the Peace, one whereof shall be the Justice who has issued such Warrant, or by the Court of General Quarter Sessions, or by one of the Judges of his Majesty's Courts in Westminster Hall or by the Lord Chancellor, Lord Keeper, or Commissioners of the Great Seal. 39, 40 G. 3. c. 94. s. 3.

And whereas Insane Persons have at different times endeavoured to gain Admittance to his Majesty's Presence, by intrusion on his Majesty's Palaces and Places of Residence and otherwise, and his Majesty's Person may be endangered by reason of the Insanity of such persons: Be it therefore enacted, that if any person who shall appear to be insane shall endeavour to gain Admittance to his Majesty's Presence, by intrusion on any of his Majesty's Palaces or Places of Residence, or otherwise, so that there may be reason to apprehend that his Majesty's Person may be endangered, it shall be lawful for his Majesty's Privy Council, or one of his Majesty's Principal Secretaries of State, to cause such person to be brought before them or him; and if upon Examination it shall appear that there is reason to apprehend such person to be insane, and that the Person of his Majesty may be endangered by reason of the Insanity of such person, it shall be lawful for his Majesty's Privy Council, or one of his Majesty's Principal Secretaries of State, to order such person to be kept in safe Custody in such place and in such manner as according to circumstances shall be ascertained; and for such purpose it shall be lawful for the Lord Chancellor, Lord Keeper, or Lords Commissioners for the Custody of the Great Seal of Great Britain, to award a Commission under the said Great Seal, directed to certain Commissioners to be therein named, to inquire into the Sanity of such Person, and whether the Person of his Majesty may be endangered by reason of the Insanity of such Person, and for such Purpose to direct the Sheriff of the County where such Person shall be to summon a Jury to try the Sanity of such person, and whether his Majesty's Person may be endangered by reason of the Insanity of such person, in the same manner as Juries are summoned to try the Sanity of persons on a Commission in the nature of a Writ De Lunatico Inquirendo; and if upon the Inquisition so taken it shall be found that such person is so far insane that the Person of his Majesty may be endangered by reason of the Insanity of such person, it shall be lawful for the Lord Chancellor, Lord Keeper, or Lords Commissioners for the Custody of the Great Seal for the time being, to take order for the safe custody of such person, so long as there shall be reason to apprehend that the Person of his Majesty may be endangered by reason of the Insanity of such person; and if it shall afterwards appear that such person shall have recovered the use of his or her Reason, so that there shall be no longer any reason to apprehend any Danger to his Majesty's Person from the In-

The Privy Council or one of the Secretaries of State may cause persons appearing to be insane, and endeavouring to gain admittance to his Majesty, to be kept in custody till the Insanity of such persons be enquired into in the manner herein directed, &c.

sanity of such person, it shall be lawful for the Lord Chancellor, Lord Keeper, or Lords Commissioners for the Custody of the Great Seal for the time being, to inquire into the fact by such means as to him or them shall seem proper; and if it shall appear to his or their satisfaction that such person has so far recovered the use of his or her Reason, that there is no ground for apprehending any Danger to his Majesty's Person from the Insanity of such person, it shall be lawful for the said Lord Chancellor, Lord Keeper, and Lords Commissioners respectively, to direct such person to be discharged from custody, either absolutely or conditionally, or under restrictions, as to him or them shall seem meet. 39, 40 G. 3 c. 94. s. 4.

The Statute 48 G. 3. c. 96. intituled "An Act for the better Care and Maintenance of Lunatics, being Paupers or Criminals, in England," recites, that "the practice of confining such Lunatics and other insane persons as are chargeable to their respective Parishes in Gaols, Houses of Correction, Poor Houses, and Houses of Industry, is highly dangerous and inconvenient; and that it is expedient that further provision should be made for the Care and Maintenance of such persons, and for the erecting proper Houses for their reception, and also for erecting additional Buildings adjoining or contiguous thereto for the reception of other Lunatics; and that it is also expedient that further provision should be made for the custody of insane persons who shall commit criminal Offences;" and then enacts, that it shall be lawful for the Justices of the Peace in England and Wales, at their General Quarter Sessions of the Peace, or any Adjournment of the same, or the major part of such Justices then and there assembled, to direct Notice to be given in some public Newspaper circulated in or near such County, of their intention of taking into consideration at their next General Quarter or General Annual Sessions, the expediency of providing a Lunatic Asylum or House for the reception of Lunatics and other insane persons within the said County, or of appointing a Committee of Magistrates to treat with any one or more of the adjacent Counties to unite for that purpose.

Justices may give notice respecting the erecting Lunatic Asylums.

Empowering Justices to contract, and appoint visiting Justices;

The said Justices of the Peace, after such Notice being given as aforesaid, shall proceed to take the same into consideration; and if it shall appear to them that it is expedient that a Lunatic Asylum or House for the Reception of Lunatics and other insane persons should be erected in and for the said County sole, the said Justices shall nominate and appoint such number of Visiting Justices as they may think fit to superintend the building, &c. of such Lunatic Asylum, and from time to time to

report the State of their Proceedings to the Court of the General Quarter Sessions. 48 G. 3. c. 96. s. 2.

Where it shall appear expedient to such Justices in and for any County to unite with any one or more adjacent County or Counties for the Purposes of this Act, and for the providing a Lunatic Asylum to serve for the said several Counties, such Justices may nominate any Number of Justices not exceeding five, to be a Committee for treating with any adjacent County for that purpose. s. 3. and also Committee of Justices.

When such Counties shall be united, agreements may be entered into, specifying where such Asylums shall be situate, and the proportion of Expence to each County, which shall be calculated upon the numbers of the Population of Counties, according to the Returns in 41 G. 3. c. 15. Such agreement shall be reported to the Quarter Sessions, and a duplicate of such agreement returned there. s. 5. Such Visiting Justices to contract for purchase of Lands and Buildings for such Asylums; Clerk and Surveyor to be appointed; Contracts shall be entered in a Book. s. 6. Expences of such Asylums shall be raised in the same manner as County Rates are to be by 12 G. 3. and 13 G. 3. s. 7. Justices may mortgage the Rates. s. 8. For charging the Rate to the Amount therein specified. Accounts shall be kept of Receipts and Payments. Money so borrowed shall be repaid within fourteen years. s. 10. Bodies Politic may convey Lands. s. 11. Justices shall not be concerned in Contracts. s. 13. Materials may be dug from Commons, waste Lands, Rivers, &c. s. 14. Visiting Justices may sue in the name of their Clerk. s. 15.

So soon as any Lunatic Asylum so erected as aforesaid shall be declared by the Visiting Justices to be completed, and in a fit state for the reception of Lunatics and other insane Persons, whereof due Notice shall be given three times at the least in some public Newspaper or Newspapers circulating in the County or District of Counties united for the purposes of this Act, the Justices of the Peace acting respectively in and for any County or Counties at the Expence of which such Asylum shall have been built, are hereby authorized and directed to issue Warrants, upon the Application of the Overseers of the Poor of any Parish situate within such County or District of Counties, for the conveyance of any Lunatic, Insane Person, or dangerous Idiot, who may be chargeable to such Parish, to such Asylum, there to be safely kept until he or she shall be duly discharged as hereinafter directed; and at the time of such issuing such Warrant every such Justice shall also make an Order upon the Overseers of

Justices may issue warrants for committal of dangerous Lunatics.

the Poor of the Parish to which such Lunatic, Insane Person, or dangerous Idiot shall belong, to pay such weekly Sum to the Treasurer of such Asylum as shall from time to time be fixed upon by the Visiting Justices as a fit Rate for the Maintenance, Medicine, Clothing, and Care of such persons. 48 G. 3. c. 96. s. 17.

Penalty on Overseers neglecting to give information to Justice of the Peace of any Lunatic Pauper, 10 l. and not less than 40s.

If any Overseer of the Poor of any Parish shall wilfully neglect or delay to give Information to such Justice of the Peace of any such Lunatic or Insane Person who shall be chargeable to such Parish, or to make application for such Warrant as aforesaid, during the space of Seven Days from the time that he shall be acquainted that such person is so lunatic or insane, he shall for every such Offence forfeit and pay a Sum of Money not exceeding Ten Pounds, nor less than Forty Shillings, to be recovered by Distress and Sale of the Offender's Goods and Chattels, by Warrant under the Hands and Seals of any Two Justices of the Peace acting for the County within which such Parish shall be situated, which Warrant such Justices are hereby required to grant upon the confession of the Party, or upon the Information of any Witness or Witnesses upon Oath (which Oath such Justices are hereby empowered to administer); and the said Penalty, after the Charges of recovering the same shall be deducted, shall be paid, One Moiety to the Informer, and the other to the Treasurer of the said Asylum, to be applied to the use of the same. s. 18.

The Statute 51 G. 3. c. 79. recites the two preceding sections (17 and 18) of 48 G. 3. c. 96., and that it is expedient that the Justices of the Peace, to whom such applications shall be made, should have a discretionary Power, as to issuing or not issuing such Warrants, in certain Cases, and under certain Restrictions, and particularly in Cases where it shall be found that the number of Applications on the behalf of persons having just Claims to be admitted, does at any time exceed the number of those who can be properly accommodated in such Asylum, with a view to care, comfort, and safe custody; and then enacts, that whenever any Application shall be made by the Overseers of the Poor of any Parish in any County or District of Counties, at the Expence of which any Lunatic Asylum shall have been erected, to any Justice of the Peace acting in and for such County or Counties, to issue his Warrant for the Conveyance of any Lunatic or Insane Person to such Asylum, it shall and may be lawful for such Justice to refuse to issue the Warrant so required, if he shall so think fit, such Lunatic or Insane Person not being actually dangerous: Provided nevertheless, that any

Whenever application shall be made by Overseers of any Parish of any County in which any Lunatic Asylum is erected, for a warrant for the conveyance of any Lunatic, the Justice may refuse it, stating his reasons.

Justice so refusing to issue such Warrant as aforesaid, shall, at the time of his so refusing, deliver in Writing to the Overseers of the Poor making such Application as aforesaid the Reasons for such Refusal. s. 1.

Provided also, that if any person or persons shall think themselves aggrieved by such Refusal of any Justice as aforesaid, such person or persons may appeal to the Justices of the Peace at the next General or Quarter Sessions of the Peace to be holden in and for the County or Place where the Matter of Appeal shall have arisen, the person or persons so appealing having given to the person against whom such Appeal shall be made, Ten Days Notice of his, her, or their Intention to make such Appeal; and the said Justices at such Sessions are hereby authorized and required to hear and determine the Matter of such Appeal in a summary way, and to make such Determination as they shall think proper; and every such Determination shall be final and conclusive to all Intents and Purposes whatsoever. s. 2.

Persons aggrieved, may appeal to the Quarter Sessions.

Provided also, that every Justice who shall have issued a Warrant or Warrants for the Conveyance of any Lunatic or Insane Person to such Asylum, or who shall have refused to issue such Warrant or Warrants, on the Application of the Overseers of the Poor of any Parish, shall make regular Returns to the next General Quarter Sessions of the Peace to be holden in and for the County in which such Parish shall be situate, of all Cases brought before him, in which he shall have granted, or refused to grant, a Warrant or Warrants for such Conveyance, stating in all cases of Refusal the Reasons for such Refusal; and such Returns shall be regularly filed and kept among the Records of such Court of General Quarter Sessions. s. 3.

Justices to make returns to the Quarter Sessions of the cases brought before them.

The Overseers of the Poor of any Parish, on making their Application to any Justice of the Peace for the Conveyance of any Lunatic or Insane Person, or dangerous Idiot, as aforesaid, shall produce to such Justice a Certificate in Writing from some Medical Person, of the state and degree of Lunacy of the person on whose behalf such Application shall be made; and that it shall be further lawful for such Justice to cause such Lunatic, Insane Person, or dangerous Idiot, to be visited by such Medical Person as he shall think fit, and to examine the said Medical Person upon Oath as to the state and degree of Lunacy of such Lunatic, Insane Person, or dangerous Idiot, and to order such Sum to be paid to such Medical Person for his attendance as may seem just and reasonable, and such Sum shall be paid by

Overseers to produce certificate of a medical person of the state of the Lunatic.

the Overseers of the Poor of the Parish making such Application out of the Money raised therein for the Relief of the Poor. 51 G. 8. c. 79. s. 4.

Medical super-
intendant of
Asylum to make
returns of the
state of persons
entrusted to his
care.

The Medical Superintendant of every such Asylum as aforesaid shall make regular Returns to the Justices of the Peace assembled at their General or Quarter Sessions, at least Once in every Year, of the State and Condition of all persons committed to his Care under the Authority of the aforesaid Act passed in the Forty-eighth Year of his present Majesty's Reign, and of this Act, in order that the said Justices may be enabled, from the Inspection of such Returns, and from the Report of such Medical Superintendant, to direct the Discharge of any persons from such Asylum who may appear from such Returns and Report to be no longer fit Objects to remain therein; and that the said Justices may at the same time issue their Warrants (which they are hereby authorized to issue) for the Admission of such other persons, at their discretion, as may appear to be the fittest Objects for immediate Reception therein, out of the several persons on whose behalf Application may have been made to any Justice of the Peace as aforesaid, and whose Cases may have been regularly reported to the said General or Quarter Sessions. s. 5.

The nineteenth section of 48 G. 3. c. 96. recites s. 20. of 17 G. 2. c. 5., and that in case there shall be a Lunatic Asylum established under the directions of this Act for the County or District of united Counties within which the Parish to which any Lunatic or mad Person apprehended by virtue of the above recited Act, belongs, shall be situated, then such Justices of the Peace who shall by virtue of the above recited Act issue any Warrant for the Confinement of such Lunatic or mad Person, shall in the Body of such Warrant so issued by them, direct and order that such Lunatic or mad Person shall be confined in such Lunatic Asylum and not elsewhere; but if no such Lunatic Asylum shall have been established, then and in such Case it shall and may be lawful for such Justices, if they think fit, to order and direct by such Warrant that such Lunatic or mad Person shall be confined in any House duly licensed for the Reception of Lunatics under the Authority of an Act passed in the Fourteenth Year of the Reign of his present Majesty, intituled "An Act for regulating Madhouses," although such House may not be situated within the County where the Parish to which such Lunatic or mad Person belongs shall lie.

And whereas it sometimes happens, that by reason of the Lunacy and Madness of such persons the place of their legal Settlement cannot be ascertained; be it enacted, that in case the place of the last legal Settlement of any Lunatic or mad Person, apprehended by virtue of the above recited Act, cannot be ascertained, then the Justices who shall have caused such person to be apprehended shall by their said Warrant direct such person to be confined in the Lunatic Asylum for the County or District of united Counties within which such person shall have been apprehended, if any such Asylum shall have been established, and not elsewhere; or if no such Asylum shall have been established, in some house duly licensed for the Reception of Lunatics as aforesaid, or in some other secure place as directed by the said recited Act; and if such person have not an estate to pay and satisfy the reasonable charges of removing, and of keeping, maintaining, and curing such person, under the authority of the said recited Act, then such Charges shall be satisfied and paid by the Treasurer of the county within which such person shall be apprehended, out of the county rates, by order of two Justices to him directed for that purpose. 48 G. 3. c. 96. s. 20.

Where the legal settlement of Lunatics cannot be discovered, the Justices shall direct that they shall be sent to the Lunatic Asylum, or some other place of confinement.

The Lunatic Asylum shall not be liable to the Reception of Lunatics chargeable to any place which does not contribute to the expence. s. 21. Encouraging Lunatic Asylums by establishing voluntary Contributions. s. 22. Persons having Lunatics in their care suffering them to go at large without an order from the Justices shall forfeit £10 and not less than 40s. s. 23. Visiting Justices may appoint officers: s. 24. and direct repairs. s. 25. Buildings exempted from Window Tax. s. 26.

Section 27 recites that by 39, 40 G. 3. c. 94. it is enacted, that in certain cases therein specified it shall be lawful for Courts of Justice to direct insane Persons to be kept in strict Custody, in such place and in such manner as to such Courts shall seem fit, until his Majesty's Pleasure shall be known; and that it shall thereupon be lawful for his Majesty to give such order for the safe custody of such persons during his pleasure, in such place and in such manner as to his Majesty shall seem fit: and that "whereas it is expedient that provision should be made for the due maintenance and care of such persons while they shall be so kept in custody;" and then enacts, that in all cases where any person shall by virtue of the above last recited Act be kept in such custody as a Lunatic or insane Person, by order of any Court or by his Majesty's Order subsequent thereto, it shall and may be lawful for any two Justices of the Peace of the County where

39 & 40 G. 3. c. 94.

Persons charged with Murder, being insane, Justices to inquire into their settlement, and make order for their maintenance.

such person shall be so kept in custody, to inquire into and ascertain by the best legal evidence that can be procured under the circumstances of personal legal disability of such Lunatic, the place of the last legal Settlement, and the circumstances of such person; and if it shall not appear that he or she is possessed of sufficient property which can be applied to his or her maintenance, to make order upon such parish where they shall adjudge him or her to be legally settled, to pay such weekly sum for his or her maintenance in such Place of Custody as such Court or his Majesty shall appoint, as shall from time to time be fixed upon and directed in writing by one of his Majesty's Principal Secretaries of State; and that where such Place of Settlement cannot be ascertained, such allowance shall be paid by the Treasurer of the county where such person shall have been apprehended; but if it shall appear that such person is possessed of such sufficient property as aforesaid, then such Justices shall order and direct the same to be applied to pay and satisfy the expence of the maintenance of such person, in the manner directed in the case of Lunatics and Mad Persons by the above recited Act, passed in the seventeenth year of King George the Second: Provided always, that the Churchwardens and Overseers of such parish in which the said Justices shall adjudge any Lunatic to be legally settled, or the major part of them, may appeal against such order to the General Quarter Sessions of the Peace to be holden for the County where such order shall be made, in like manner and under like restrictions and regulations as against any order of removal, giving reasonable notice thereof to the Clerk of the Peace of such county, who shall be respondent in such appeal; which said appeal the Justices of the Peace assembled at the said General Quarter Sessions are hereby authorized and empowered to hear and determine, in the same manner as other orders of removal are now heard and determined. s. 27.

Appeal.

Provisions to extend to ridings, cities, and towns.

All provisions, directions, clauses, matters, and things whatever in this Act contained relating to counties, shall extend to all Ridings, Divisions, Cities, Towns, Liberties and Places possessing separate jurisdictions; and if relating to Parishes, shall extend to all Vills, Townships, and Places maintaining their own Poor, as fully and amply as if they were severally and respectively repeated in every such provision, direction, and clause, and with relation to any such matter or thing. s. 28.

The expence of removal of a pauper shall be

The Statute 51 G. 3. c. 79. enacts, that on the regular discharge of any Pauper from any such Asylum, the necessary Expences

attending the removal of such Pauper shall be borne by the Parish in which such Pauper shall be legally settled; and such Expences, being allowed by two Justices of the Peace acting in and for the county in which such parish shall be situated, shall be paid by the Overseers of the Poor of such Parish, out of the money raised therein for the relief of the Poor. s. 6.

paid by the parish in which the pauper shall be legally settled.

No bastard child which shall be born of any Lunatic, Insane Person, or dangerous Ideot, in any such Asylum, shall thereby gain a Settlement in the Parish in which such Asylum shall be situated; but that the place of the legal Settlement of any such child so born as aforesaid shall be in the parish where the mother of such child was last legally settled. s. 7.

Bastards of Lunatics to have the legal settlement of the mother.

Schedule to the Statute 48 G. 3. c. 96.

No. 1. Form of Agreement for uniting the Counties or Ridings, &c. [as the case may be] of A. B. and C.; for the purpose of providing a Lunatic Asylum, or House for the Reception of Lunatics and Insane Persons, pursuant to the Statute of the Forty-eighth Year of King George the Third.

It is agreed this day of by and between the Committees of Justices of the Peace severally appointed for the Counties [or Ridings, Cities, &c. as the case may be] of A. B. C. to treat for the uniting of the said Counties for the purposes of an Act (for the better Care and Maintenance of Paupers and Criminal Lunatics) passed in the forty-eighth year of his Majesty King George the Third, that the said Counties [&c. as the case may be] shall from henceforth be united for the purposes of the said Act, and adopt in all respects the Provisions, Rules, Orders, and Regulations, and comply with all the requisites prescribed by the said Act for Counties uniting for those purposes; and that a Lunatic Asylum, or House for the Reception of Lunatics and other Insane Persons, with all necessary Buildings, Courts, Yards, and Outlets, shall be immediately provided at or near and properly fitted up and accommodated for the purposes mentioned in the said Act; and that the necessary Expences attending upon the providing, building, fitting up, Repairs and Maintenance of the said Lunatic Asylum, shall be defrayed by the said Counties so united, in the following Proportions, that is to say;

The County of *A.* four-ninths of the said Expences.

The County of *B.* three-ninths of the same.

The County of *C.* two-ninths of the same [or as the case may be.]

Insane Offenders.

And we do further agree, that the Committee of Visiting Justices to superintend the Building, Erection, and Management of the said Lunatic Asylum, shall consist of Eighteen [or, *as the case may be*]; whereof the Justices of the Peace for the said County of *A.* shall appoint Eight, the Justices of the Peace for the County of *B.* shall appoint Six, and the Justices of the Peace for the County of *C.* shall appoint Four: and hereunto we, the undersigned Justices of the Peace, being the major part of each of the said Committees of Justices for the said several Counties, do, on the part and behalf of the said Counties, set our Hands and Seals, this day of in the year

No. 2. Form of Mortgage and Charge upon the County Rates for securing the Money borrowed.

We *A. B.* one of his Majesty's Justices of the Peace and Chairman of the Court of Quarter Sessions of the Peace for the County, &c. of [*as the case shall be*] holden at

the day of *C. D. and E. F.*

esquires, two other of his Majesty's Justices of the Peace acting for the said County, &c. and assembled in the said Court, in pursuance of the powers to us given by an Act passed in the forty-eighth year of the reign of his Majesty King George the Third, intituled, [*&c. here insert the title of the Act*] do hereby in open Court mortgage and charge all the Rates to be raised within the said County, [*&c. as the case shall be*] under the description of County Rates by the Laws now in being, with the Payment of the Sum of which *G. H.* of

hath proposed and agreed to lend, and hath now actually advanced and paid towards defraying the Expences of purchasing Lands for building, repairing, [*&c. as the case shall be*] the Lunatic Asylum for the said County, [*&c. or the United Counties of, &c. as the case may be*], and we do hereby confirm and establish the same unto the said *G. H.* his executors, administrators, and assigns, for securing the Repayment of the said Sum of and Interest for the same after the rate of

per centum per annum, and do order the Treasurer for such County, &c. or other person [*as the case shall be*] to pay the Interest of the said Sum of half-yearly, as the same shall become due, until the Principal shall be discharged, pursuant to the directions of the said Act.

The Statute 56 G. 3. c. 127. to amend the foregoing Statute 39 & 40 G. 3. c. 94. recites that by that Act "it is enacted, that in certain cases therein specified, it shall be lawful for Courts of

Justice to direct Insane Persons to be kept in safe Custody, in such Place and in such manner as to such Court shall seem fit, until his Majesty's Pleasure shall be known; and that it shall thereupon be lawful for his Majesty to give such Order for the safe custody of such Persons, during his Pleasure, in such place and in such manner as to his Majesty shall seem fit;" and that "it is expedient that Provision should be made for the due care of persons who may, after Conviction for any criminal Offence, become Insane;" and then enacts, that if any person having been duly convicted of any Offence, who after such Conviction and during his or her Imprisonment, or continuance in any Gaol, Prison, Hulk, Penitentiary House, or House of Correction, under Sentence of Transportation or Imprisonment, shall become Insane, and it shall be duly certified by two Physicians or Surgeons that such Person is Insane, it shall be lawful for one of his Majesty's Principal Secretaries of State to direct, by Warrant under his hand, that such person as aforesaid shall be removed to such Lunatic Asylum or other proper Receptacle for Insane Persons in the United Kingdom, as his Majesty's said Principal Secretary of State may judge proper and appoint; and every such Person so removed as aforesaid shall remain under Confinement in such Lunatic Asylum or other proper Receptacle as aforesaid, or in any other Lunatic Asylum or other proper Receptacle, to which such person may be removed by any like Order, until it shall be duly certified to his Majesty's said Principal Secretary of State, by two Physicians or Surgeons, that such Person has become of sound Mind; whereupon his Majesty's said Secretary of State is hereby authorized, if such Person shall still remain subject to Imprisonment or to be continued in Custody, to issue his Warrant to the Keeper or other Person having the Care of any such Lunatic Asylum or other proper Receptacle as aforesaid, directing that such Person shall be removed back from such Lunatic Asylum or other proper Receptacle, to the Gaol, Prison, Hulk, Penitentiary House, or House of Correction, from whence the said person or persons shall have been taken for the purposes of being confined in such Lunatic Asylum or other proper Receptacle as aforesaid during the Time of their being Insane; or, if the period of Imprisonment or Custody of such person had expired, that such person shall be discharged.

Offenders becoming insane, after conviction, may be removed to any Lunatic Asylum.

Judgment.

Justices before whom Inquisitions, &c. of Felony and Treason are taken, may give judgment thereon.

Our Lord the King hath ordained by the Authority of the said Parliament, that the Justices before whom Inquisitions, Inquests, and Juries from henceforth shall be taken by the King's Writ called Nisi Prius, according to the form of the Statute thereof made, shall have power of all the cases of Felony and of Treason to give their Judgment, as well when a man is acquitted of Felony or of Treason, as when he is thereof attainted at the Day and Place where the said Inquisitions, Inquests, and Juries be so taken, and then from thenceforth to award Execution to be made by force of the same Judgment. 14 H. 6. c. 1.

Judgement of whipping shall not be awarded on Females.

Women convicted of Felonies for which men have their Clergy, may be burnt in the hand, and also imprisoned and ~~whipped~~. 21 Jac. 1. c. 6. But now, by the Statute 57 G. 3. c. 75. intituled "An Act to abolish the Punishment of Public Whipping on Female Offenders," reciting that "the Punishment of Public Whipping of Female Offenders has been found inexpedient;" it is enacted, that from and after the passing of this Act, Judgment shall not be given and awarded against any Female or Females convicted of any offence, that such Female Offender or Offenders do suffer the punishment of being publicly whipped; any Law, Statute, or Usage to the contrary notwithstanding. s. 1.

Such offenders may be sentenced to hard labour.

In all cases where the punishment of public Whipping on Female Offenders has hitherto formed the whole or part of the Judgment to be pronounced, it shall and may be lawful for the Court before whom any such offender shall be tried, to pass such Sentence of Confinement to Hard Labour in the Common Gaol or House of Correction, in lieu of the sentence of being Publicly Whipped, as to the said Court shall seem most proper: Provided, that nothing herein contained shall extend or be construed to extend in any manner to change, alter, or affect any punishment whatsoever which may now be by Law inflicted in respect of any Offence, except only the Punishment of Public Whipping on Female Offenders, in Manner as herein above is enacted. s. 2

The sixth Section of the Statute 10, 11 W. 3. c. 23. directed that offenders convicted of Theft or Larceny, and allowed their Clergy, or who ought to be burnt in the Hand for such offence, should in lieu thereof be burnt in the most visible part of the left Cheek nearest the Nose: this Section is by 5 Ann. c. 6. repealed; and the latter Act (s. 2.) enacts, that in all cases where any

Person or Persons shall, from and after 14th February 1706, be convicted of any Theft or Larceny, and shall have the benefit of this Act allowed thereupon, or ought by the Laws in force before the making the said Act (1), to be burnt in the Hand for such offence, shall be burnt in the Hand as formerly they should or ought to have been before the making of the said Act; and the Judge or Justices before whom such offender or offenders shall be tried and convicted, shall also at his or their discretion award and give judgment, that such offender and offenders shall be committed to some House of Correction or Public Workhouse within the County, City, Town, or Place where such Conviction shall be, there to remain and be kept without Bail or main prize for such time as such Judge or Justices shall then judge and award, not less than six months, and not exceeding two Years, to be accounted from the time of such Conviction, and an entry thereof shall be made of Record pursuant to such Judgment and Award; and such offender and offenders so judged and awarded to remain and be kept in such House of Correction or Public Workhouse, shall be there set at work and kept at hard Labour for and during such time as shall be so adjudged and recorded; and in case such Person or Persons shall refuse or neglect to work and labour as they ought to do, the Master or Keeper of such House of Correction or Public Workhouse respectively, is hereby required to give such Person such due Correction as shall be fit and necessary in that behalf.

In case any such offender or offenders shall after such Judgement given escape out of Prison, or out of such House of Correction, or public Workhouse, as he, she, or they shall be committed unto as aforesaid, such person or persons being afterwards retaken shall be brought before some or one of her Majesty's Judges, or before two or more Justices of the Peace (whereof one to be of the Quorum) of such county, city, town, or place where such offender or offenders shall be so retaken, which Judge or Justices are hereby required to commit such offender and offenders to some House of Correction or public Workhouse within such county, city, town, or place where he, she, or they shall be so retaken, there to remain without bail or mainprize for any time not less than twelve months, and not exceeding four years, to be accounted from the time of such retaking, and there to be set at work and kept at hard labour, and receive such due correction as aforesaid; and in case any

Punishment of persons escaping out of the House of Correction.

master or keeper of any House of Correction or publick Work-house shall neglect to do his duty as above directed, any Judge or Justice of Assize or Gaol Delivery, upon complaint and due proof thereof upon the oath of one or more witnesses to him made, shall be and is hereby impowered to remove any such person from his said office. 5 Ann. c. 6. s. 3.

Judges.

3 Inst. 146.

The Judges shall do equal law and execution of right ;

and shall not take any thing of any one ;

nor give any counsel.

First, we have commanded all our Justices, that they shall from henceforth do equal Law and Execution of Right to all our Subjects, rich or poor, without having regard to any person, and without omitting to do right for any Letters or Commandment which may come to them from us, or from any other, or by any other cause; and if that any Letters, Writs, or Commandments come to the Justices, or other deputed to do Law and Right according to the usage of the Realm, in disturbance of the Law, or of the Execution of the same, or of Right to the parties, the Justices and other aforesaid shall proceed and hold their Courts and Processes where the pleas and matters be depending before them, as if no such Letters, Writs, or Commandments were come to them; and they shall certify us and our Council of such Commandments which be contrary to the Law as afore is said : And to the intent that our Justices should do even right to all people in the manner aforesaid, without more favor shewing to one than to another, we have ordained and caused our said Justices to be sworn, That they shall not from henceforth, as long as they shall be in the Office of Justice, take fee nor robe of any man but of ourself, and that they shall take no gift nor reward by themselves nor by other, privily nor apertly, of any man that hath to do before them by any way, except meat and drink, and that of small value; and that they shall give no counsel to great men or small, in case where we be party, or which do or may touch us in any point, upon pain to be at our Will, Body, Lands, and Goods, to do thereof as shall please us, in case they do contrary; and for this cause we have increased the fees of our Justices in such manner as it ought reasonably to suffice them. 20 Ed. 3. c. 1.

In the same manner we have ordained in the Right of the Barons of the Exchequer, and we have expressly charged them in our presence, That they shall do right and reason to all our Subjects, great and small, and that they shall deliver the people reasonably and without delay of the business which they have to

do before them, without undue tarrying, as hath been done in 4 Inst. 115. times past. 20 Ed. 3. c. 2.

Item we have ordained, that all they which shall be Justices assigned by Commission to hear and determine, and such as shall be associated to them, and also Justices of Assises to be taken in the country, and of Gaol delivery, and such as shall be assigned and associated to them, shall make first an Oath in certain Points, according as to them shall be enjoined by our Council in our Chancery, before that any Commission be to them delivered. 20 Ed. 3. c. 3.

Associates to the Judges.

Such associates shall take an oath.

Item, we will and have ordained, that the Justices assigned to take Assises shall have Commissions sufficient to enquire in their Sessions of Sheriffs, Escheators, Bailiffs of Franchises, and their Under Ministers, and also of Maintainors, common Embraceors, and Jurors in the country, and of the gifts, rewards, and other profits, which the said Ministers do take of the people to execute their Office, and that which pertaineth to their Office, and for making the array of Pannels, putting in the same suspect Jurors, and of evil fame, and of that Maintainors, Embraceors, and Jurors do take gifts and rewards of the parties, whereby losses and damages do very grievously come daily to the people, in subversion of the Law, and disturbance of common Right, and to punish all them which thereof shall be found guilty, according as Law and Reason requireth, as well at our suit as at the parties; and thereupon we have charged our Chancellor and Treasurer to hear complaints of all them which will complain, and to ordain that speedy remedy be thereof made; whereof we do command, that thou (1) do cause the said Points and Ordinances aforesaid openly to be published, and shewed at such places within thy Bailiwick as thou shalt think good, to the end that they which feel them grieved in the form aforesaid, may pursue for remedy according to the said Ordinance, and that our people may perceive our intent and will in this behalf, and the desire that we have that even right may be done to all our subjects as well poor as rich, and that the offenders be restrained and punished. Dated at *Westminster*, the Seventh Day of *March*, the Year of our Reign of *England* the Twentieth, and of *France* the Seventh. 20 Ed. 3. c. 6.

See Regist. 186. The powers of Justices of Assise under their Commissions.

The Commissions of Judges for the time being shall be, continue, and remain in full force during their good behaviour, notwithstanding the demise of his Majesty (whom God long

Judges Commissions shall continue in force during good behaviour.

(1) The Sheriff of Stafford, to whom the writ is directed with this Statute annexed.

preserve), or of any of his Heirs and Successors; any Law, usage, or practice to the contrary thereof in anywise notwithstanding. 1 G. 3. c. 23. s. 1.

Judges may be removed upon an address.

Provided, that it may be lawful for his Majesty, his Heirs and Successors, to remove any Judge or Judges upon the Address of both Houses of Parliament. s. 2.

Judges, &c. may act as Justices of Assise in the counties in which they were born or reside.

The Statute 12 G. 2. c. 47. recites the Statutes 8 R. 2. c. 2. & 33 H. 8. c. 24., and that such Acts have been construed to extend not only to Justices of Assise and Justices of Gaol Delivery, but also to Justices of Nisi Prius and Justices of Oyer and Terminer, which construction hath been attended with very great inconveniences; and for remedy thereof enacts, that it shall and may be lawful from time to time, and at all times hereafter, to and for the Chief Justice and Justices of either Bench, and to and for the Chief Baron and other Barons of the Court of Exchequer, and to and for any other person or persons learned in the Law, who shall be appointed Justice or Justices of Oyer and Terminer or Gaol Delivery in any County or Counties within that part of Great Britain called England, to use and exercise the office or offices of Justice or Justices of Oyer and Terminer or Gaol Delivery in any such County or Counties, notwithstanding they or any of them shall have been born or do inhabit within any such County or Counties; and that they shall not be liable for so doing to the said penalty or forfeiture of one hundred pounds, or to any other forfeiture or penalty whatsoever; any thing in the said recited Acts, or either of them, or any other law, custom, or usage to the contrary in anywise notwithstanding.

Judges Lodgings.

In what cases the Judges lodgings shall be taken, to be situate both within a county at large and within the county of any city or town.

The Statute 19 G. 3. c. 74. s. 80. recites that the Courts of Assise, Nisi Prius, Oyer and Terminer, and Gaol Delivery, for several Counties at large in this Kingdom, are often held in or near Cities or Towns that are Counties of themselves, and at the same time with the like Courts for the said Cities or Towns; and inconveniences frequently arise, in transacting the Business of the several Courts, for that the Lodgings of the Judges are situate either only in the County at large, or only in the County of such City or Town; and then enacts, that whenever the Courts of Assise, Nisi Prius, Oyer and Terminer, or Gaol Delivery, for any County at large, in that part of Great Britain called England, shall be held in or near any City or Town that

is also a County of itself, and at the same time with the like or any of the like Courts for the said City or Town, the Lodgings of the Judge or Judges shall be construed and taken to be situate both within the County at large, and also within the County of such City or Town, for the purpose of carrying this Act into execution, and of transacting the business of the Assises for such County at large, and for the County of such City or Town, during the time that such Judge or Judges shall continue therein for the execution of their several Commissions.

The above section is made perpetual by the Statute 39 G. 3. c. 46.

Jurisdiction.

By 2 H. 5. st. 1. c. 5. reciting the Commission of many Treasons, Murders, and other Felonies, within the Franchise of Tyndal and Exhamshire, where the King's writ did not run, it is enacted, that if any person of the said Franchises, resiant or dwelling in the same, do any Treason, Murders, Manslaughters, or Robberies, or consent to do them, out of the said Franchises, Process shall be made against him by the Common Law, until he be outlawed. The provisions of 2 H. 5. st. 1. c. 5. extended to the Franchise of Ridesdale, by 9 H. 5. st. 1. c. 7.

4 Inst. 278.
Outlawries for offences committed out of Exhamshire and Tyndal by offenders resiant there.

Reciting that Commissions had theretofore been granted unto Mayors, Recorders, and others, of ancient Cities and Towns Corporate, not being Counties in themselves, for the keeping the Peace and executing the Laws of the Kingdom within such Cities and Towns Corporate, and also for the delivery of the prisoners remaining in the Gaols there; and that afterwards other Commissions for like purposes in such Cities and Towns Corporate had been granted to other persons, which, bearing a later day, had been a supersedeas and clear discharge of such former Commissions, it is enacted that all Commissions granted to any such City or Town Corporate, not being a County of itself, for the keeping of their Peace and delivery of their prisoners remaining in the Gaols of any such City or Town Corporate, not being a County of itself, shall stand and be good and available in Law, to all intents and purposes, the granting of any like Commission of Peace or Gaol Delivery, to any Commissioner for the Conservation of the Peace or delivery of the prisoners remaining in the Gaol of any Shire, Lathe, Rape, Riding, or Wapentake, within England, bearing date after any such Commission granted as aforesaid, to

The granting a subsequent Commission of the Peace, or Gaol Delivery, into a city or town corporate (not being a county of itself), shall not be a supersedeas to a former like one.

4 Inst. 169.

any City or Town Corporate, not being, as is aforesaid, a County in itself, to the contrary notwithstanding. 2, 3 P. & M. c. 18.

Justices may direct a Capias into every county in England.

Item, where in times past some persons appealed or indicted of divers Felonies in one County, or outlawed in the same County, have been dwelling or relieved in another County, whereby such felonious persons indicted, and outlawed, have been encouraged in their Mischief, because they may not be attached in another County; it is enacted, that the Justices assigned to hear and determine such Felonies shall direct their writs to all the Counties of England, where need shall be, to take such persons indicted. 5 Ed. 3. c. 11.

What process shall be awarded where one of the county of Chester commits felony in another county.

Item, upon the grievous clamour and complaint made to the King, of many Murders, Manslaughters, Robberies, Batteries, and other Riots and Offences, which before this time have been done by people of the County of Chester, to the King's liege people in divers parts and Counties of England, our Lord the King, by the assent and advice, &c. hath ordained and stablished, that if any person of the County of Chester, resident or dwelling within the same County, of what Estate or Condition he be, do commit any Murder or Felony in any place out of the same County, Process shall be made against him by the Common Law till the Exigent in the County where such Murder or Felony was done; and if he flee from thence into the County of Chester, and be outlawed and put in Exigent for such Murder or Felony, the same Outlawry or Exigent shall be certified to the Officers and Ministers of the same County of Chester, and the same Felon shall be taken by the same Officers or Ministers, and his Lands and Tenements, Goods and Chattels, being within the same County of Chester, shall be seized as forfeit, into the Hands of the Prince, or of him that shall be Lord of the same County of Chester for the time, and the King shall have the year and day and the waste; and the other Lands and Tenements, Goods and Chattels, of such Felon, being out of the said County of Chester, shall remain wholly to the King and to other Lords having thereof franchise, as forfeit: and if any person of the same County of Chester, resident or dwelling in the same, make a Battery or other Trespass in any place out of the said County of Chester, Process shall be made against him by the Common Law, till the Exigent in the Counties where such Battery or Trespass is done; and if he flee from thence into the said County of Chester, and be outlawed for such Battery or Trespass, the Outlawry shall be certified to the Officers and Ministers of the said County of Chester, and

The process where one of the county of Chester commits Battery or other trespass in any other county.

the same persons shall be taken by the same Officers or Ministers, and his Goods and Chattels, being within the same County of Chester, shall be seized into the hands of the Prince, or of him which shall be Lord of the said County of Chester for the time; and his other Goods and Chattels, being out of the said County of Chester, shall remain wholly to the King and to other Lords aforesaid as forfeit, in such sort as afore is said. 1 H. 4. c. 18.

The Statute 38 G. 3. c. 52. intituled "An Act to regulate the Trial of Causes, Indictments, and other Proceedings, which arise within the Counties of certain Cities and Towns Corporate within this Kingdom," recites, "that there at present exists, in the Counties of Cities and of Towns Corporate within this Kingdom, an exclusive Right, that all Causes and Offences which arise within their particular Limits should be tried by a Jury of persons residing within the Limits of the County of such City or Town Corporate; which ancient Privilege, intended for other and good purposes, has in many instances been found, by experience, not to conduce to the ends of Justice; and that it will tend to the more effectual administration of Justice, in certain cases, if Actions, Indictments, and other Proceedings, the Causes of which arise within the Counties of Cities and Towns Corporate, were tried in the next adjoining Counties," and then "in order therefore to remedy this Mischief for the future," enacts, that from and after the passing of this Act, in every Action, whether the same be transitory or local, which shall be prosecuted or depending in any of his Majesty's Courts of Record at Westminster, and in every Indictment removed into his Majesty's Court of King's Bench by Writ of Certiorari, and in every Information filed by his Majesty's Attorney or Solicitor General, or by the leave of the Court of King's Bench, and in all cases where any person or persons shall plead to or traverse any of the facts contained in the return to any Writ of Mandamus, if the Venue in such Action, Indictment, or Information, be laid in the County of any City or Town Corporate within that part of Great Britain called England, or if such Writ of Mandamus be directed to any Person or Persons, Body Politick and Corporate, that it shall and may be lawful for the Court in which such Action, Indictment, Information, or other Proceeding shall be depending, at the prayer and instance of any Prosecutor or Plaintiff, or of any Defendant, to direct the Issue or Issues joined in such Action, Indictment, Information, or Proceeding, to be tried by a Jury of the County next adjoining to

In actions in any Court of Record at Westminster, &c. if the Venue be laid in the county of any city or town corporate in England, &c. the Court may direct the issue to be tried by a Jury of the county next adjoining.

the County of such City or Town Corporate, and to award proper Writs of Venire and Distringas accordingly, if the said Court shall think it fit and proper so to do. s. 1.

Bills of Indictment for offences committed within the county of any city or town corporate, may be preferred to the Jury of the county next adjoining.

It shall and may be lawful for any Prosecutor or Prosecutors to prefer his, her, or their Bill or Bills of Indictment, for any Offence or Offences committed, or charged to be committed, within the County of any City or Town Corporate, to the Jury of the County next adjoining to the County of such City or Town Corporate, sworn and charged to inquire for the King for the Body of such adjoining County, at any Sessions of Oyer and Terminer, or General Gaol Delivery; and every such Bill of Indictment, found to be a true Bill by such Jury, shall be valid and effectual in Law, as if the same had been found to be a true Bill by any Jury sworn and charged to inquire for the King for the Body of the County of such City or Town Corporate. s. 2.

Indictments found by a Grand Jury of any city or town corporate, or Inquisitions taken before the Coroner, may be ordered to be filed with the proper officer of the next adjoining county, and the defendants removed to the gaol thereof, &c.

If it shall appear to any Court of Oyer and Terminer or General Gaol Delivery for the County of any City or Town Corporate, that any Indictment found by any Grand Jury of the County of such City or Town Corporate, or any Inquisition taken before the Coroner or Coroners of the County of such City or Town Corporate, or other Franchise, is fit and proper to be tried by a Jury of any next adjoining County, it shall and may be lawful for the said Court of Oyer and Terminer or General Gaol Delivery, at the prayer of any Defendant, to order such Indictment or Inquisition, and the several Recognizances, Examinations, and Depositions relative to such Indictments and Inquisitions, to be filed with the proper Officer, to be by him kept among the Records of the Courts of Oyer or Terminer and General Gaol Delivery for such next adjoining County, and to cause the Defendant or Defendants in such Indictment to be removed, by Writ of Habeas Corpus, to the Gaol of such next adjoining County; which Writ the said Court is hereby directed and authorized to issue, if such Defendant or Defendants be in the Prison of such City or Town Corporate; and if he, she, or they be not in such Prison, to commit such Defendant or Defendants to the Gaol of such next adjoining County, and to cause the Prosecutors and Witnesses against such Defendant or Defendants, to enter into a Recognizance or Recognizances, to prosecute and give Evidence against such Defendant or Defendants at the Sessions of Oyer and Terminer and General Gaol Delivery for such next adjoining County; and that the same Proceedings and Trial shall be

had, and the same Judgment shall be given, in such last-mentioned Court of Oyer and Terminer or General Gaol Delivery, as would and might be had and given in Cases of Indictments or Inquisitions for the like Offences, committed within such next adjoining Counties. 38 G. 3. c. 52. s. 3.

It shall and may be lawful for any of the Judges of his Majesty's Court of King's Bench, or any of the Justices of Oyer and Terminer or General Gaol Delivery, for such next adjoining or other County as aforesaid, on the Application of any such Prosecutor or Prosecutors ten days next before the holding of any Sessions of Oyer and Terminer, or General Gaol Delivery, for such last-mentioned County, by proper Writs of Habeas Corpus, which they are hereby empowered and authorized to issue, to cause any person or persons who may be in the custody of any Sheriff or Sheriffs, or of the Keepers of any Gaol or Prison, charged with any Offence or Offences committed within the County of any such City or Town Corporate, to be removed into the custody of the Sheriff of such next adjoining County, in order that he, she, or they may, for such Offence or Offences as aforesaid, be tried in such last-mentioned County, and by order under the hand of any one of the said Judges or Justices of Oyer and Terminer and General Gaol Delivery, to direct the Coroner or Coroners of the County of any such City or Town Corporate, or other Franchise, to return to the next Court of Oyer and Terminer or General Gaol Delivery, to be holden for such next adjoining County, any Inquisition or Inquisitions, Examination or Deposition taken touching the Death of any person or persons within the limits of his or their jurisdictions; and that whenever, in pursuance of this Act, any Bill or Bills of Indictment shall be found by such Grand Jury as aforesaid, against any person or persons, for any Offence or Offences committed, or charged to be committed, within the County of any City or Town Corporate, that it shall and may be lawful for the said Courts of Oyer and Terminer and General Gaol Delivery, to issue Process for apprehending the person or persons against whom such Bill or Bills of Indictment shall be found, if not in custody, and to compel the attendance of Witnesses upon the Trial of such Indictments, in like manner as in cases of Indictments found in any such Court of Oyer and Terminer or General Gaol Delivery, for Offences committed within such adjoining Counties. s. 4.

The Judges of the Court of King's Bench, &c. may cause persons in custody for offences committed within the county of any city or town corporate, to be removed into the custody of the Sheriff of the next adjoining county, for trial; and direct Coroners to return to the Court of Oyer and Terminer inquisitions, &c.

Recognizances entered into for prosecution of persons for offences committed within the county of any city or town corporate, &c. to be forfeited if the parties, on notice of intention to prefer indictments in the next adjoining county, do not appear, &c.

Every Recognizance which, after the passing of this Act, shall be entered into for the prosecution of any person or persons, for any Offence or Offences committed, or charged to be committed, within the County of any City or Town Corporate, or within any Liberty or Franchise, and every Recognizance for the Appearance as well of Witnesses to give Evidence upon any Bill of Indictment to be preferred, or any Inquisition found for any such Offence or Offences as aforesaid, as for the appearance of any person or persons to answer our Lord the King for or concerning the same, shall be forfeited, if the Prosecutor shall, ten days previous to the holding of the next Court of Oyer and Terminer or Gaol Delivery, in the next adjoining or other County, give notice to the person bound in such Recognizance to give Evidence upon such Bill of Indictment, or to answer our said Lord the King as aforesaid, of the intention to prefer such Indictment, or to remove such Inquisition, in or into the next adjoining or other County, and the Party bound in such Recognizance shall not appear, prosecute, or give, or be ready to give Evidence at such Court; but if the person bound in such Recognizance, after Notice as aforesaid, shall appear at such Court of the next adjoining or other County, prosecute, give, or be ready to give Evidence on such Indictment before the Grand Jury, and on the Trial thereof, or on the Trial of such Inquisition, then the said Recognizance shall be discharged, in such and the like manner as if the person bound in such Recognizance had complied with the Terms thereof. 38 G. 3. c. 52. s. 5.

Notice left at the abode of Recognisors who cannot be found, to be effectual.

Provided also, that in case the person or persons who shall enter into such Recognizance or Recognizances as aforesaid, cannot be found, and such Notice as aforesaid be left at his, her, or their last place of abode, ten days previous to the holding such Sessions as last aforesaid, the same shall be as good and effectual as if the same were left with the person or persons who shall enter into such Recognizance or Recognizances; and no such Recognizance shall be estreated or returned into the Court of Exchequer until the next following Sessions of Oyer and Terminer or General Gaol Delivery to be holden for such next adjoining County, in order that such Recognizance or Recognizances may be discharged, in case the person or persons who shall have entered into the same shall shew to such Court of Oyer and Terminer or General Gaol Delivery, sufficient cause for discharging the same. s. 6.

Recognizances not to be estreated until the next following Sessions.

Persons before whom such Recognizances shall

All and every person and persons, before whom any such Recognizance or Recognizances as aforesaid shall be entered

into, or by whom any Examination or Deposition shall be taken, touching any such Offence or Offences as aforesaid, shall and they are hereby required to return the same to the next Court of Oyer and Terminer and General Gaol Delivery for such next adjoining County as aforesaid, upon such Prosecutor or Prosecutors as aforesaid leaving at the Dwelling House or other place of Abode of the person or persons before whom such Recognizance or Recognizances shall be entered into, or by whom such Examination or Deposition shall be taken, ten days before the holding of any Sessions of Oyer and Terminer or General Gaol Delivery for such next adjoining or other County as aforesaid, Notice in writing of his, her, or their intention to prosecute such Indictment or Inquisition at such last-mentioned Sessions of Oyer and Terminer or General Gaol Delivery, for any Offence or Offences committed within the County of any City or Town Corporate; and after the Delivery as aforesaid of any of the said Notices, it shall not be lawful for any person or persons to prefer any Bill or Bills of Indictment, or to return any Inquisition, for any Offence or Offences mentioned in the said Recognizances, or any of them, at or to any Sessions of Oyer and Terminer or General Gaol Delivery for the County of such City or Town Corporate. 38 G. 3. c. 52. s. 7.

be entered into, &c. to return them to the next Court of Oyer and Terminer for the next adjoining county, upon notice of intention to prosecute at such Sessions for any offence committed within the county of any city or town corporate.

After such notice bills shall not be preferred, &c. at any Sessions for the county of the city or town corporate.

In all cases of Indictments, and other Proceedings, which may be tried before his Majesty's Justices of Oyer and Terminer or General Gaol Delivery for any County, in pursuance of the Provisions contained in this Act, it shall and may be lawful for such Justices to order the expences of the prosecution, and of the witnesses, and of the several rewards payable in pursuance of the Statutes in such cases made and provided on the conviction of offenders, to be paid by and to the same persons, and in the same manner, as the same would be payable if such Indictment had been tried in the Court of Oyer and Terminer or General Gaol Delivery of the County of such City or Town Corporate. s. 8.

Justices of Oyer and Terminer for the county may order the expences of prosecution, &c. to be paid, as if the indictment had been tried in the Court of the county of the city or town corporate.

For the purposes of this Act, the County of York shall be considered as the next adjoining County to the County of the Town of Kingston-upon-Hull; and the County of Northumberland as the next adjoining County to the County of the Town of Newcastle-upon-Tyne. s. 9.

York to be considered as next county to Kingston-upon-Hull, and Northumberland as next to Newcastle-upon-Tyne.

Provided always, that nothing in this Act shall extend, or be construed to extend, to the Cities of London and Westminster, or the Borough of Southwark, or the City or County of the City of Bristol, or the City or County of the City of Chester, or to the Criminal Jurisdiction of the City of Exeter and County

Act not to extend to certain places;

of the same City, unless in cases of Indictment removed into his Majesty's Court of King's Bench by Writ of Certiorari, from any Court of Criminal Jurisdiction within the said City or County of the said City of Exeter. 38 G. 3. c. 52. s. 10.

nor to take away any other ancient privileges of Corporations, who shall not be liable to attend as Jurymen upon the trial of any cause in the county at large.

Provided also, that nothing in this Act shall extend, or be construed to extend, to take away any other Rights or Privileges which have been anciently granted to such Corporations, by Royal Charters or Grants, and which have been immemorially held and enjoyed by such Corporations; but that they shall continue in the full possession of all their other exclusive Rights and Privileges as much as if this Act of Parliament had never passed, and that they shall not be obliged to attend as Jurymen upon the Trial of any Cause or any Indictment which may be removed from the limited Jurisdiction to the County at large, nor upon the Trial of any other Cause or any other Indictment, which may be tried before his Majesty's Justices of Assise, Oyer and Terminer, and General Gaol Delivery, in the next adjoining County. s. 11.

Act not to authorize the preferring any Bill of Indictment for an offence committed within the county of any city or town corporate to the Jury of the next adjoining county, unless Recognizance be entered into to pay the extra costs.

Provided always, that nothing in this Act contained shall extend, or be construed to extend, to enable any Person to prefer any Bill of Indictment for any Offence committed, or charged to be committed within the County of any City or Town Corporate, to the Jury of such next adjoining County as aforesaid, or to remove any Indictment or other criminal Proceeding, except the Person preferring such Bill, or applying for such removal, shall enter into a recognizance before the Court where such Bill shall be preferred, or the Court or Magistrate to whom such application shall be made, as the case may be, in the Sum of Forty Pounds, conditioned to pay the extra Costs attending the prosecuting for such Offence in such next adjoining County, provided the Court before whom the Trial is had shall be of opinion that he ought to pay the same. s. 12.

The Statute 51 G. 3. c. 100. made to amend the before mentioned Statute 38 G. 3. c. 52. recites the first Section of that Act, and further recites that it was further provided by the said recited Act, [s. 2.] that if it should appear, in the manner therein mentioned, to any Court of Oyer and Terminer or General Gaol Delivery for the County of any City or Town Corporate, that any Indictment found by any Grand Jury of the County of such City or Town Corporate, or any Inquisition taken before the Coroner or Coroners of the County of such City or Town Corporate, or other Franchise, was fit and proper to be tried by a Jury of any next adjoining County, that the same proceed

ings and trial should be had, and the same Judgment should be given as would and might be had and given in Cases of Indictments or Inquisitions for the like Offences committed within such next adjoining Counties; but that no power was given in cases of Conviction, in pursuance of any of the Provisions in the said recited Act, of ordering the Execution of the Sentence in the County of the City or Town Corporate within which the Offence had been committed, and was charged to have been committed: And that it may be fit and expedient, that in such cases the Punishment should be inflicted, and the Sentences put in Execution, in the respective Counties of the Cities or Towns Corporate where such Offences had been so committed: and then enacts, (s. 2.) that from and after the passing of this Act, it shall and may be lawful for the Court before which any Conviction shall have taken place in pursuance of the Provisions of the said recited Act, to order every such Convict to be punished according to Law, either within the County where such Conviction shall have taken place, or within the County of the City or Town Corporate wherein such Offence shall have been committed; and in cases where the Court shall order such Convict to be punished within the County of such City or Town Corporate, it shall and may be lawful for the Court, after passing Sentence upon every such Convict or Convicts, to order him, her, or them to be delivered into the Custody of the Sheriff or Sheriffs, Gaoler or other proper Officer or Officers of the County of such City or Town Corporate, and the Sheriff or Sheriffs, Gaoler or other proper Officer or Officers of the County of such City or Town Corporate is and are hereby commanded to receive into his or their Custody every such Convict or Convicts, and to execute the Sentence so passed upon him her and them in such adjoining County, as if he, she, or they had been tried and had received such Sentence in the County of such City or Town Corporate.

In cases of conviction under recited act, the sentence may be executed in the county of the city or town corporate.

The second section recites the eighth section of 38 G. 3. and that it is just and expedient that a similar Provision should be made for the Payment of all other Expences which may be incurred by any such adjoining County in relation to any Person who may be tried or removed for Trial to such adjoining County, for any Offence committed or charged to have been committed in the County of any such City or Town Corporate; and enacts, that it shall and may be lawful for the Justices of Oyer and Terminer or General Gaol Delivery, at any Session thereof holden for such County, and they are hereby required to order

Judges may order expences incurred by counties to be paid.

all Expences whatsoever incurred by such County in relation to any person who shall be tried in such County or removed thither for Trial, for any Offence committed or charged to have been committed within the County of any such City or Town Corporate, as well in maintaining and supporting such Person and carrying the Sentence into Execution as in any other respect, to be repaid to the Treasurer of such County or other Person acting as Treasurer of such County, or who shall have actually paid such Expences, by the same Person or Persons and in the same Manner as the same would have been payable if such Offender or supposed Offender had remained in the County of such City or Town Corporate, and had been tried in the Court of Oyer and Terminer or General Gaol Delivery of the County of such City or Town Corporate, and as if the Sentence with respect to such Offender had been carried into Execution within the County of such City or Town Corporate. s. 2.

The Statute 28 G. 3. c. 49. intituled "an Act to enable Justices of the Peace to act as such, in certain Cases, out of the Limits of the Counties in which they actually are," recites that "the Administration of Justice is frequently obstructed for want of Resident Justices of the Peace, and might be much furthered in case the Justices acting for two or more adjoining Counties are enabled to act for the same, if personally present in either of those in which they act;" and for remedy thereof, in future enacts, that, from and after the passing of this Act, it shall and may be lawful for any Justice or Justices of the Peace, acting as such for any two or more Counties being adjoining Counties, to act as a Justice or Justices of the Peace in all matters and things whatsoever, concerning or in anywise relating to any or either of the said Counties, and that all act and acts of such Justice or Justices of the Peace, and the act and acts of any Constable or other Officer in obedience thereto, shall be as valid, good, and effectual in the Law, to all intents and purposes whatsoever, as if such act or acts of the said Justice or Justices had been done in the County or Counties to which such act or acts more particularly relate; and all Constables and other Officers of the said County or Counties to which such act or acts relate, are hereby authorized and required to obey the Warrants, Orders, Directions, act and acts of such Justice or Justices so granted, given and done, and to do and perform their several Offices and Duties, under the Pains and Penalties to which any Constable or other Officer may be liable for a neglect of duty: provided always, that such Justice or Justices be personally resident in one of the

Justices for two adjoining counties may act for either, if resident in one.

said Counties at the time of doing such act or acts: provided also, that the Warrants, Orders, or Directions, so to be given and granted, be directed and given in the first instance to the Constable or other Officer of the County to which the same more particularly relate.

From and after the passing of this Act, it shall and may be lawful for any Constable, Tithingman, Headborough, or other Peace Officer, or any other person or persons apprehending or taking into Custody any person or persons offending against Law, and whom they lawfully may and ought to apprehend and take into Custody by virtue of his or their Office or Offices, or otherwise howsoever, to convey and take the person or persons so apprehended or taken into Custody as aforesaid, to any Justice or Justices of the Peace acting for the said County and resident in such adjoining County, as aforesaid; and the said Constables, Tithingmen, Headboroughs, and other Peace Officers, and all and every other person or persons are hereby authorized, empowered, and required, in all such cases, so to act in all things as if the said Justice or Justices of the Peace was or were resident within the said County to which they respectively belong; and all and every person or persons obstructing or hindering the said Constables, Tithingmen, Headboroughs, or other Peace Officers, in the execution of their respective Offices, in the said County or Counties adjoining as aforesaid, shall be, and are hereby made liable to the same Pains and Penalties, for such obstruction and hindrance of the said Officers in the execution of their respective Offices; as if the same had been committed in the County for which the said Constables, Tithingmen, Headboroughs, or other Peace Officers, were appointed to act. s. 2.

Constables, &c. may carry offenders before Justices acting for the county, and resident in the adjacent county, &c.

From and after the passing of this Act, it shall and may be lawful for any Sheriff, or other person or persons deputed by him, or acting under his authority, Constable, Headborough, Tithingman, or other Peace Officer, or any other Person or persons lawfully taking into, or having in his or their Custody respectively, any person or persons offending against Law, and whom he or they may or might lawfully convey to Gaol, or any Place of safe Custody, to convey or take the said person or persons so in Custody as aforesaid, into and through any part or parts of the said County or Counties so adjoining in their way to such Gaol or Place of safe Custody within the County wherein such offence was done or committed; and all and every person or persons escaping from such Custody as aforesaid, or aiding or assisting

Sheriffs, constables, &c. may convey offenders through adjoining counties, to the gaol of the county where the offence was committed.

such Escape or Escapes, or rescuing such person or persons so in Custody as aforesaid, shall be subject to the like Pains and Penalties for such Escape or Escapes, and for such Aid and Assistance so given as aforesaid, and for such Rescue and Rescues, as if the said Escape or Escapes had happened, or such Aid and Assistance had been given, or such Rescue or Rescues made, in the County wherein such Offence was done or committed. 28 G. 3. c. 49. s. 3.

And whereas by an Act passed in the Ninth Year of the Reign of King George the First, [9 G. 1. c. 7.] provision is made for enabling Justices of the Peace, dwelling in any City or other Precinct, being a County of itself, situate within a County at large, to act as such Justices for the County at large, at certain Places within such City, Town, or other Precinct: and whereas such Provisions have been found beneficial to the Public, but doubts have arisen with respect to the Construction of the said Act in certain Cases; for the removing whereof, be it enacted, that, from and after the passing of this Act, it shall and may be lawful for any Justice or Justices of the Peace, acting for any County at large, to act as such at any place within any City, Town, or other Precinct, being a County of itself, and situate within, surrounded by, or adjoining to any such County at large; and that all and every such act and acts, matters and things, done by such Justice or Justices of the Peace for the said County at large, within such City, Town, or other Precinct, shall be as valid and effectual in the Law, as if the same had been done within the said County at large, to all intents and purposes whatsoever: provided always, that nothing in this Act contained shall extend to give power to the Justices of the Peace for any County at large, not being Justices for such City, Town, or other Precinct, or any Constable or other Officer acting under them, to act or intermeddle in any matters or things arising within any such City, Town, or Precinct, in any manner whatsoever. s. 4.

Justices for counties at large may act as such within any city being a county of itself, situate therein, surrounded by, or adjoining to such county;

but shall not act in matters arising within such city, if they are not also Justices for the same.

Jury.

Forasmuch as Sheriffs, Hundreders, and Bailiffs of Liberties, have used to grieve those which be in subjection under them, putting in Assises and Juries Men diseased and decrepid; and having continual or sudden disease, and Men also that dwelled not in the Country at the time of the Summons; and summon also an unreasonable multitude of Jurors, for to extort Money

from some of them for letting them go in peace, and so the Assises and Juries pass many times by poor Men, and the rich Men abide at Home by reason of their Bribes; it is ordained, that from henceforth in one Assise no more shall be summoned than Four and Twenty; and old Men above Three Score and Ten Years, being continually sick, or being diseased at the time of the Summons, or not dwelling in that Country, shall not be put in Juries of Petit Assises; nor any shall be put in Assises or Juries though they ought to be taken in their own Shire that hold a Tenement of less than the Value of Twenty Shillings, yearly; and if such Assises and Juries be taken out of the Shire, none shall pass in them but such as hold a Tenement of less than the Value of Forty Shillings yearly at the least, except such as be Witnesses in Deeds, or other Writings, whose Presence is necessary, so that they be able to travel; neither shall this Statute extend to Great Assises, in which it behoveth many times Knights to pass, not resident in the Country for the scarcity of Knights, so that they have Land in the Shire; and if the Sheriffs or his Under Sheriffs or Bailiffs of Liberties offend in any point of this Statute, and thereupon be convict, Damages shall be awarded to the Parties grieved, and they shall nevertheless be amerced to the King; and Justices assigned to take Assises where they come into the Shire shall have Power to hear the Plaints of all Complainants, as to the Articles contained in this Statute, and to minister Justice in Form aforesaid. 13 Edw. 1. c. 38.

How many and who shall be summoned upon juries.

Penalty of Sheriffs, &c. offending against this Act.

No person shall be admitted to pass in any Inquest upon Trial of the Death of a Man, nor in any Plea, Real or Personal, whereof the Debt or Damages amount to Forty Marks, if the same person have not Lands or Tenements of the yearly Value of Forty Shillings above all Charges of the same, so that it be challenged by the Party, that any such person so impanelled in the same Cases hath not Lands or Tenements as aforesaid. 2 H. 5. st. 2. c. 3.

2 Roll 395. Qualification of jurors.

This Statute shall only extend to Inquests taken between Denizen and Denizen. 8 H. 6. c. 29.

Item, it is accorded that no Indictor shall be put in Inquests upon deliverance of the Indictes of Felonies or Trespass, if he be challenged for that same cause by him which is so indicted. 25 Edw. 3. st. 5. c. 3.

Bro. Chall. 42. 101. 120. 142. 166.

No indictor shall be put in inquests of Juries.

All manner of Inquests and Proofs which be to be taken or made amongst Aliens and Denizens, be they Merchants or other,

Juries de mediate lingue.

although the King be party, the one half of the Inquest or Proof shall be Denizens and the other half of Aliens, if so many Aliens and Foreigners be in the town or place where such Inquest or proof is to be taken, that be not parties, nor with the parties in contracts, pleas, or other quarrels, whereas such Inquests or Proofs ought to be taken, and if there be not so many Aliens, then shall there be put in such Inquests or Proofs as many Aliens as shall be found in the same towns or places, which be not thereto parties, nor with the parties as afore is said, and the remnant of Denizens which be good men, and not suspicious to the one party nor to the other. 28 Ed. 3. c. 13. s. 2. The Statute 2 H. 5. st. 2. c. 3. (see this title and page 399) shall not be prejudicial to 28 Ed. 3. c. 13. s. 2. but shall extend only to Inquests between Denizen and Denizen. 8 H. 6. c. 29.

Panels of Jurors
may be amended
by Justices of
Assise and of
the Peace.
12 Co. 99. 68.

A recital of the Extortions and Oppressions practised by Sheriffs in the return of Panels, for their own benefits; wherefore it is enacted, that all Panels to be returned, which be not at the suit of any party, that shall be made and put in by every Sheriff and their ministers afore any Justice of Gaol Delivery or Justice of Peace, whereof one to be of the quorum, in their open Sessions to inquire for the King, shall be reformed by putting in and taking out of the names of the persons which so be impanelled by every Sheriff and their Ministers, by discretion of the same Justice before whom such Panels shall be returned; and that the same Justice and Justices shall command every Sheriff and their Ministers in his absence to put other persons in the same Panel by their discretions; and that the same Panel so reformed by the said Justices be good and lawful; and that if any Sheriff, or any his Minister, at any time do not return the same Panel so reformed, that then every such Sheriff or Minister so offending for every such offence shall forfeit xx li. sterling money of England, one half to the King, and the other half to the party suing for the same; and that the King's pardon shall be no bar against the parties in the same that any such action shall sue. 3 H. 8. c. 12.

44 Ed. 3. c. 39.
Fitz. decies
can. 12.
Rast. 145.
Regist. 188.
Jurymen shall
not take of either
party.

Item it is accorded, that if any Juror in Assises, Juries or Inquests, take of the one party or of the other, and be thereof duly attainted, that hereafter he shall not be put in any Assises, Juries or Inquests, and nevertheless he shall be commanded to prison, and further ransomed at the King's will; and the Justices before whom such Assises, Juries, and Inquests shall pass, shall have

power to enquire and determine according to this Statute.
5 Ed. 3. c. 10.

See 34 Ed. 3. c. 8. 38 Ed. 3. st. 1. c. 12.

Item, that in every Plea whereof the Inquest or Assise doth pass, if any of the parties will sue against any of the Jurors, that they have taken of his adversary or of him for to give their Verdict, he shall be heard, and shall have his plaint by Bill presently before the Justices before whom they did swear, and that the Juror be put to answer without any delay; and if they plead to the Country, the Inquest shall be taken presently. And if any man other than the party will sue for the King against the Juror, it shall be heard and determined as afore is said. And if the Juror be attainted at the Suit of other than the party, and maketh fine, the party that sueth shall have half the fine; and that the parties to the Plea shall recover their damages by the assessment of the Inquest, and that the Juror so attainted have imprisonment for one year, which imprisonment the King granteth that it shall not be pardoned for any fine; and if the party will sue by writ before other Justices, he shall have the suit in the form aforesaid. 34 Ed. 3. c. 8.

31 H. 6. f. 8.
Fitz. damage, 76.
Fitz. decies tantum, 1—6. 9:
21.
Rast. 145.
The punishment of jurors taking money of the parties.

The Statute 3 G. 2. c. 25. "for the better regulation of Juries," (which is made perpetual by 6 G. 2. c. 37.) enacts, that if any person required by 7, 8, W. 3. c. 32. and 3, 4, Ann. c. 18. or this Act, to make up lists of persons qualified to serve on Juries, shall wilfully omit out of such lists (see s. 1. of the Act) any person whose name ought to be therein inserted, or wilfully insert any person who ought to be omitted, or take any money, &c. for so doing, they shall forfeit 20s. for every such offence, to be recovered in a summary way before one Magistrate; and such convicting Magistrate shall certify the same to the Justices at their next General Quarter Sessions for the County where such offender shall dwell, which Justices shall direct the Clerk of the Peace for the time being to insert or strike out the name or names of such person or persons as shall by such certificate appear to have been omitted or inserted in such lists contrary to the meaning of this Act; and the duplicates of the said lists when delivered in at the Quarter Sessions of the Peace, and entered in such book to be kept by the Clerk of the Peace for that purpose, shall during the continuance of such Quarter Sessions, or within ten days after, be delivered or transmitted by the Clerk of the Peace to the Sheriff of such respective County, or his Under-sheriff, in order for his returning of Juries out of the said lists;

Persons wilfully omitting or inserting wrong person in the lists of juries, shall be fined.

Duplicates of lists of jurors shall, by the Clerk of the Peace, be transmitted to the Sessions.

Clerk of the Peace neglecting so to do, shall forfeit £20.

Penalty on Sheriffs, &c. returning jurors whose names are not in such duplicates.

Clerks of Assize, Associates, or other officers recording the appearance of jurors who do not attend, shall be fined by the Judge.

Justices of Assize, &c. may fine Sheriffs, &c. irregularly returning jurors.

and such Sheriff or Under-sheriff shall immediately take care that the names of the persons contained in such duplicates shall be faithfully entered alphabetically, with their additions and places of abode, in some book or books to be kept by him or them for that purpose; and that every Clerk of the Peace neglecting his duty therein, shall forfeit the sum of twenty pounds to such person or persons as shall inform or prosecute for the same, until the party be thereof convicted upon an indictment before the Justices of the Peace at any General Quarter Sessions of the Peace to be holden for the same County, Riding, Division, or Precinct. s. 2.

In case any Sheriff, Under-sheriff, Bailiff, or other Officer to whom the return of Juries shall belong, shall summon and return any person or persons to serve on any Jury in any cause to be tried before the Justices of Assize or Nisi Prius, or Judges of the said Great Sessions, (1) or the Judge or Judges of the Sessions for the said Counties Palatine, (2) whose name is not inserted in the duplicates so delivered or transmitted to him or them by such Clerk of the Peace, if any such duplicate shall be delivered or transmitted; or if any Clerk of Assize, Judges Associate, or other Officer shall record the appearance of any person so summoned and returned as aforesaid, who did not really and truly appear; then and in such case any Judge or Justice of Assize or Nisi Prius, or Judge or Judges of the said Great Sessions, or the Judge or Judges of the Sessions for the said Counties Palatine, shall and may, upon examination in a summary way, set such fine or fines upon such Sheriff, Under-sheriff, Clerk of the Assize, Judges Associate, or other Officer, for every such person so summoned and returned as aforesaid, and for every person whose appearance shall be so falsely recorded, as the said Judge or Justice of Assize, Nisi Prius, or the said Great Sessions, or the Judge or Judges of the Sessions of the said Counties Palatine, shall think meet; not exceeding Ten Pounds and not less than Forty Shillings. s. 3.

And for preventing abuses by Sheriffs, Under-sheriffs, Bailiffs, or other Officers concerned in the summoning or returning of Juries, be it enacted, that no person shall be returned as Jurors to serve on trials at any Assises or Nisi Prius, or at the said Great Sessions (1), or at the Sessions for the said Counties Palatine (2), who have served within the space of One Year before

(1) In Wales.

(2). Of Lancaster, Chester, or Durham.

in the County of Rutland, or Four Years in the County of York, or of Two Years before in any other County (1) not being a County of a City or Town: And if any such Sheriff shall wilfully transgress therein, any Judge or Justice of Assise or Nisi Prius, or of the said Great Sessions, or the Judge or Judges of the Sessions for the said Counties Palatine, may and is hereby required, on Examination and proof of such Offence, in a summary way, to set a fine or fines upon every such Offender, as he shall think meet, not exceeding Five Pounds for any one Offence. 3 G. 2. c. 25. s. 4.

No Sheriff, Under-sheriff, Bailiff, or other Officer or person whatsoever, shall directly or indirectly take or receive any money or other reward to excuse any person from serving or being summoned to serve on Juries, or under that colour or pretence; and that no Bailiff or other Officer appointed by any Sheriff or Under-sheriff to summon Juries, shall summon any person to serve thereon other than such whose name is specified in a mandate signed by such Sheriff or Under-sheriff, and directed to such Bailiff or other Officer; and if any Sheriff, Under-sheriff, Bailiff, or other Officer, shall wilfully transgress in any the cases aforesaid, any Judge or Justice of Assise, Nisi Prius, or Great Sessions aforesaid, or the Judge or Judges of the Sessions for the said Counties Palatine, may and is hereby required, on examination and proof of such Offence, in a summary way, to set a fine or fines upon any person or persons so offending, as he shall think meet, not exceeding Ten Pounds, according, to the nature of the Offence. s. 6.

Sheriffs or other officers taking money, &c. to excuse persons from serving on juries, shall be fined by the judge.

Every person or persons whose name or names shall be so drawn as aforesaid (2), and who shall not appear after being openly called three times, upon Oath made by some credible person that such person so making default had been lawfully summoned, shall forfeit and pay for every default in not appearing upon call as aforesaid, (unless some reasonable cause of his absence be proved on Oath or Affidavit, to the satisfaction of the Judge who sits to try the said Cause), such fine or fines, not exceeding the sum of Five Pounds and not less than Forty Shillings as the said Judge shall think reasonable to inflict or assess for such default. s. 13.

Jurymen called in Court to serve and not appearing, shall be fined.

(1) This is altered as to Middlesex by 4 G. 2. c. 7. s. 2.

(2) By ballot as directed by s. 11. of the Act.

Justices of Assise.

And see Titles ASSISES—JUDGES.

Item, as to the keeping of the Peace in time to come, it is ordained and enacted, that the Statutes made in time past, with the Statute of *Winchester*, shall be observed and kept in every point. And when it is contained in the end of the said Statute of *Winchester*, that the Justices assigned shall have Power to enquire of Defaults, and to report to the King in his Parliament, and the King to remedy it, which no man hath yet seen, the same Justices shall have Power to punish the Disobeyers and Resisters. 2 Ed. 3. c. 6.

4 Inst. 168.
Certain persons
shall be assigned
Justices of Assise
and Gaol Deli-
very, to deliver
the gaols three
times a year.

Item it is ordained, that good and discreet persons, other than of the places, if they may be found sufficient, shall be assigned in all the Shires of England, to take Assises, Juries, and Certifications, and to deliver the Gaols; and that the said Justices shall take the Assises, Juries, and Certifications, and deliver the Gaols, at least three times a year, and more often if need be. Also there shall be assigned good and lawful Men in every County to keep the Peace; and at the time of the Assignments, mention shall be made that such as shall be indicted or taken by the said Keepers of the Peace shall not be let to Mainprize by the Sheriffs, nor by none other Ministers, if they be not mainpernable by the Law; nor that such as shall be indicted shall not be delivered but at the Common Law; and the Justices assigned to deliver the Gaols shall have power to deliver the same Gaols of those that shall be indicted before the Keepers of the peace; and that the said Keepers shall send their Indictments before the Justices, and they shall have Power to enquire of Sheriffs, Gaolers, and other in whose Ward such indicted Persons shall be, if they make Deliverance, or let to Mainprize any so indicted which be not mainpernable, and to punish the said Sheriffs, Gaolers, and others, if they do any thing against this Act."

4 Ed. 3. c. 2.

Justices of Peace.

Who shall be
assigned Justices
of Peace in each
county.

Item, that two or three of the best of reputation in the Counties shall be assigned Keepers of the Peace by the King's Commission, and at what time need shall be, the same, with other wise and learned in the law, shall be assigned by the King's Commission to hear and determine Felonies and Trespasses done

against the Peace in the same Counties, and to inflict punishment reasonably according to law and reason, and the manner of the deed. 18 Ed. 3. st. 2. c. 2.

The Justices of the Peace from henceforth to be made within the Counties of England shall be made of the most sufficient persons dwelling in the same Counties, by the advice of the Chancellor and of the King's Council, without taking other persons dwelling in foreign Counties to execute such office, except the Lords and the Justices of Assises, and except the King's Chief Steward of the Lands and Seignories of the Duchy of Lancaster in the north parts and in the south for the time being. 3 H. 5. st. 2. c. 1.

4 Inst. 51. .
Who shall be
Justices of Peace.

By 14 R. 2. c. 11. there shall be eight Justices of Peace in each County. This Act also regulates the wages of the Justices, and the returning of Estreats by them. See Statute 12 R. 2. c. 10. post, page 407.

There shall be
eight Justices of
Peace in each
county.

No Justices of Peace shall hereafter be assigned or deputed if he have not lands or tenements to the value of xx. li. by the year ; and if he have not such qualification, he shall thereof give knowledge to the Chancellor within one month, and failing so to do shall forfeit xx. li : not to extend to Cities, Towns, or Boroughs being Counties incorporate of themselves. If there be not sufficient persons so qualified within any such County, the Chancellor shall put other discreet persons learned in the law in such Commissions, by his discretion, though they are not so qualified. 18 H. 6. c. 11.

The qualification
of Justices of
Peace.

Lawyers being
constituted
Justices, need
not be so quali-
fied.

Recites that by a former Statute no Steward of any Lord might be a Justice of the Peace, and enacts, that Justices of the Peace shall be made of new in all the Counties of England of the most sufficient Knights, Esquires, and Gentlemen of the Law of the Counties, notwithstanding the said Statute ; and that the said Justices shall be sworn duly without favour to keep and put in execution all the Statutes and Ordinances touching their Offices. 13 R. 2. st. 1. c. 7.

Justices of Peace
shall be sworn.

The Justices of the Peace in every Shire named of the quorum shall be resiant within the same Shire (except Lords named in the Commission of the Peace, the Judges, the Chief Baron, Sergeants at Law, and the Attorney General, while occupied in the King's Courts or service); and make their Sessions four times by the year ; that is to say, in the first week after the Feast of St. Michael ; in the first week after the Epiphany ; in the first week after the Clause of Easter ; and in the first week after the Translation of St. Thomas the Martyr, and more often

Justices of Peace
shall be resiant
in the counties.
Exception.

How often they
shall hold their
Sessions.

if need be; and that the same Justices hold their Sessions throughout England in the same weeks every year from henceforth. 2 H. 5. st. 1. c. 4. s. 2.

How often in
Middlesex.

By Statute 14 H. 6. c. 4. the County of Middlesex is exempted from the provisions of 2 H. 5.; provided that the Justices of Middlesex for the time being keep, observe, and execute the Court of Session of the Peace two times in the year at the least, and more often if need be.

Cro. El. 148.
689.
8 Co. 36.

First, that in every County of England shall be assigned for the keeping of the Peace one Lord and with him Three or Four of the most worthy in the County, with some learned in the Law, and they shall have Power to restrain the Offenders, Rioters, and all other Barrators, and to pursue, arrest, take, and chastise them according to the Trespass or Offence, and to cause them to be imprisoned and duly punished according to the Law and Customs of the Realm, and according to that which to them shall seem best to do by their Discretions and good Advisement, and also to inform them and to enquire of all those that have been Pillors and Robbers in the Parts beyond the Sea, and be now come again, and go wandering and will not labour as they were wont in times past, and to take and arrest all those that they may find by Indictment or by Suspicion, and to put them in Prison, and to take of all them that be not of good fame where they shall be found, sufficient Surety and Mainprize of their good behaviour towards the King and his People, and the other duly to punish, to the Intent that the People be not by such Rioters or Rebels troubled or endangered, nor the Peace blemished, nor Merchants nor other passing by the Highways of the Realm disturbed, nor put in the Peril which may happen of such Offenders; and also to hear and determine at the King's Suit all manner of Felonies and Trespasses done in the same County, according to the Laws and Customs aforesaid; and that Writs of Oyer and Terminer be granted according to the Statutes thereof made, and that the Justices which shall be thereto assigned, be named by the Court and not by the Party. And the King wills that all general Inquiries before this time granted within any Seignories, for the Mischiefs and Oppressions which have been done to the People by such Inquiries, shall cease utterly and be repealed; and that Fines which are to be made before Justices for a Trespass done by any Person be reasonable and just, having regard to the quantity of the Trespass and the Cause for which they be made. 34 Edw. 3. c. 1.

Justices of Peace
may hear and
determine
felonies and
trespasses.

Fines for tres-
passes shall be
reasonable.

No person having, using, or exercising the Office of Sheriff of any County, shall use or exercise the Office of the Justice of the Peace by force of any Commission or otherwise in any County or Counties where he shall be Sheriff during the time only that he shall use or exercise the said Office of Sheriffwick, any thing in the former Act [1 Edw. 6. c. 7. s. 3.] to the contrary notwithstanding; and that every Act done by any such Sheriff by Authority of any Commission of the Peace during the time abovesaid shall be void and of none effect, the said former Act notwithstanding. 1 Mar. st. 2. c. 8.

Justice of the Peace shall not act as such during the time he is sheriff.

It is ordained and enacted, that in every Commission of the Justices of Peace, there shall be assigned but six Justices with the Justices of Assises; and that the said six Justices shall keep their Sessions in every quarter of the Year at the least, and by three days if need be, upon Pain to be punished according to the discretion of the King's Council at the suit of every man that will complain; and they shall inquire diligently amongst other things touching their Offices, if the said Mayors, Bailiffs, Stewards, Constables, and Gaolers have duly done execution of the Ordinances of Servants and Labourers, Beggars and Vagabonds, and shall punish them that be punishable by the pain of an Hundred Shillings by the same pain; and they that be found in Default, and which be not punishable by the same pain, shall be punished by their Discretion; and every of the said Justices shall take for their wages Four Shillings the day, for the time of their said Sessions, and their Clerk Two Shillings of the Fines and Amerciaments rising and coming of the same Sessions, by the hands of the Sheriffs; and that the Lords of Franchises shall be contributory to the said wages, after the rate of their part of Fines and Amerciaments aforesaid; and that no Steward of any Lord be assigned in any of the said Commissions; and that no association shall be made to the Justices of the Peace after their first Commission; and it is not the intent of this Statute, that the Justices of the one Bench or of the other, nor the Sergeants of the Law, in case that they shall be named in the said Commissioners, shall be bound by force of this Statute to hold the said Sessions four times in the Year, as the other Commissioners, the which be continually dwelling in the Country, but that they shall do it when they may best attend it. 12 R. 2 c. 10.

The wages of the Justices and Clerks of the Peace.

There shall be no association to the Justices of Peace.

The Judges and Sergeants at Law shall attend the Sessions but when they may.

And also it is ordained by the same Authority, that every Justice of Peace within this Realm, that shall take any Recognizance for the Keeping of the Peace, that the same Justice do certify, send, or bring the same Recognizance, at the next Ses-

Justices of Peace shall certify to the next sessions recognizances by them taken to keep the peace.

sions of Peace where he is Justice, that the Party so bound may be called; and if the Party make Default, the same Default then to be recorded, and the same Recognizance, with the Record of the Default, be sent and certified into the Chancery, or afore the King in his Bench, or into the King's Exchequer. 3 H. 7. c. 1.

Justices of Peace shall, before bailing offenders, take examinations in writing, and certify the same and the bonds to the next General Gaol Delivery.

And the said Justices [of Peace], or one of them, being of the Quorum, when any Prisoner is brought before them for any Manslaughter or Felony, before any Bailment or Mainprize (see title Bail), shall take the examination of such Prisoner, and information of them that bring him, of the fact and circumstances thereof, and the same, or as much thereof as shall be material to prove the Felony shall put in writing before they make the same Bailment; which examination, together with the Bailment, such Justices shall certify to the next General Gaol Delivery within the limits of their Commission. 1, 2, P. & M. c. 13. s. 4.

Such regulations extended to cases where offenders are committed and not bailed.

Reciting that the Act 1, 2, P. & M. c. 13. did not extend to Prisoners brought before any Justice of Peace for Manslaughter or Felony, and by such Justice committed to ward for suspicion of the same, and not bailed, in which case the Examination of such Prisoner and of such as brought him, was as necessary or rather more than where such Prisoner was let to Bail, enacts, that such Justice or Justices before whom any Person shall be brought for Manslaughter or Felony, or for suspicion thereof, before he or they shall commit or send such Prisoner to ward, shall take the Examination of such Prisoner, and Information of those that bring him, of the fact and circumstances thereof, and the same, or as much thereof as shall be material to prove the Felony, shall put in writing within two days after the said Examination; and the same shall certify in such manner and form and at such time as they should and ought to do if such prisoner so committed or sent to ward had been bailed or let to mainprize, under the pains limited in that Act; and such Justices shall have authority to bind all such by recognizance or obligation, as do declare any thing material to prove the said Manslaughter or Felony, against such Prisoner so committed, to appear at the next General Gaol Delivery to be holden within the County, City, or Town Corporate, where the Trial for such Manslaughter or Felony be, then and there to give evidence against the Party; and the Justices shall certify the said Bonds taken before them in like manner as directed by the said recited Act, upon like pain as therein is mentioned. 2, 3, P. & M. c. 10. As to the Jurisdiction of Justices of Peace, as relating to offences committed on the High Seas, see title Piracy III. § 3.

• And every Coroner, upon any Inquisition before him found, whereby any Person shall be indicted for Murder or Manslaughter, or as accessory to the same before the fact, shall put in writing the effect of the Evidence given to the Jury before him, being material, and as well the said Justices as the said Coroner shall have authority by this Act to bind all such by recognizance or obligation, as do declare any thing material to prove the said Murder, Manslaughter, Offences, or Felonies, or to be accessory or accessories to the same, to appear at the next General Gaol Delivery to be holden within the County, City or Town Corporate, where the trial thereof shall be, then and there to give Evidence against the Party so indicted, at the time of his Trial; and shall certify as well the same Evidence as such Bond or Bonds in writing, as he shall take, together with the Inquisition or Indictment before him taken and found, at or before the time of his Trial to be had or made; and likewise such Justices shall certify all and every such Bond taken before them in like manner as before is said of Bailments and Examination: and in case any Justice of Peace or Quorum or Coroner shall offend in any thing contrary to the true intent and meaning of this Act, that then the Justices of Gaol Delivery of the Shire, City, Town, or Place where such offence shall happen to be committed, upon due proof thereof by examination before them, shall for every such offence set such fine on every of the same Justices of Peace and Coroner as the same Justices of Gaol Delivery shall think meet; and shall estreat the same as other fines and amerciaments before them ought to be. 1, 2, P. & M. c. 13. s. 5.

Justices of Peace and Coroners within London and Middlesex, and in other Cities, Boroughs and Towns Corporate within this Realm and Wales, shall within their Jurisdictions have authority to let to Bail Felons and Prisoners, as they have heretofore been accustomed; and also shall take examinations and bonds as is aforesaid, upon every Bailment by them made; and shall certify such Bailments, Bonds, and Examinations by them taken or made at the next Gaol Delivery to be holden in the Shire, City, Borough, or Town where their Jurisdictions extend, upon like pain and forfeiture as is before limited in this Act. s. 6.

The Statute 7 G. 3. c. 21. recites that “ authority is given by divers Acts of Parliament to two or more Justices of the Peace, whereof one or more are to be of the Quorum; and whereaps many inconveniences have arisen in such Cities,

Coroners shall put into writing the evidence given before the Jury, and return same to the next Gaol Delivery. Justices and Coroner may bind over parties to give evidence at the trial of any murder, &c. or felony;

and also return such examinations and bonds.

Penalty on them for neglect.

The duty of Justices of Peace and Coroners in London and Middlesex in taking bail, examinations, and bonds.

Instruments executed by two Justices in towns corporate, &c. shall be valid, though one is not of the Quorum.

Boroughs, Towns, Corporate, Franchises, and Liberties as have only one Justice of the Peace of the Quorum qualified to act within the same;" and then enacts, that from and after the passing of this present Act, all Acts, Orders, Adjudications, Warrants, Indentures of Apprenticeship, or other Instruments which shall be made, done, or committed by virtue of any Act or Acts of Parliament made or to be made by two or more Justices of the Peace qualified to act within such Cities, Boroughs, Towns Corporate, Franchises, and Liberties, though neither of the said Justices are of the Quorum, shall be valid and effectual in law to all intents and purposes, as if one of the said Justices had been of the Quorum; any Law, Statute or Usage to the contrary notwithstanding.

Kidnapping.

To carry away or detain any one against their will in the northern counties, shall be felony, without clergy.

The Statute 43 Eliz. c. 13. reciting that many subjects dwelling and inhabiting within the Counties of Northumberland, Cumberland, and Westmoreland, and the Bishoprick of Duresme, had been taken, some from their houses, others in travelling or otherwise, and carried out of the same Counties, or to some other place within the same as Prisoners, and cruelly treated, till they have been redeemed by great ransoms, enacts, (s. 2.) that whoever shall at any time hereafter, without good and lawful warrant and authority, take any of the Queen's subjects against his or their will or wills, and carry them out of the same Counties, or to any other place within any of the said Counties, or detain, force, or imprison him or them as Prisoners, or against his or their wills, to ransom them, or to make a prey or spoil of his or their person or goods, upon deadly feud or otherwise; or whoever shall be privy, consenting, aiding, or assisting unto any such taking, detaining, or carrying away, or procure the taking, detaining, or carrying away of any such person or persons, Prisoners as aforesaid; and shall be thereof indicted and lawfully convicted, or stand mute, or shall challenge peremptorily above twenty, before the Justices of Assizes, Gaol Delivery, Oyer and Terminer, or Justices of Peace within any of the said Counties, at some of their General Sessions, within some of the said Counties to be holden, shall be reputed, adjudged, and taken as Felons, and shall suffer pains of Death without any benefit of Clergy, and shall forfeit as in case of Felony.

Persons outlawed upon this Statute shall be proclaimed by the Sheriff at certain places named in the Act, and persons conferring with or relieving such outlaws shall be imprisoned Six Months, and before being enlarged shall find sureties for One Year. 43 Eliz. c. 13. s. 4, 5.

By 18 Car. 2. c. 3. it is enacted, that the benefit of Clergy shall be taken away from great, known, and notorious thieves, and spoil-takers in Northumberland and Cumberland, or either of them, during the continuance of this Act, who shall be duly convicted for theft done in those Counties; or the Justices of Assise and Commissioners of Oyer and Terminer or Gaol Delivery before whom such offenders are convicted may cause such offenders to be transported to America, there to remain and not to return. This Act is continued by 6 G. 2. c. 87. and made perpetual by 31 G. 2. c. 42. See further title NORTHERN COUNTIES.

Clergy taken away from notorious thieves and spoil-takers in Northumberland and Cumberland. East, P. C. 65c.

Lace.

The Statute 28 G. 3. c. 7. "to render more effectual the Statute 15 G. 2. c. 20." recites that by that Act it is enacted that "from and after 1 July 1742, all Copper, Brass, and every other Metal inferior to Silver, shall be spun upon Thread, Yarn, or Inkle only, and not spun, mixed, wove, wrought, or set upon Silk, upon pain that each and every person offending therein shall forfeit and pay the sum of Five Shillings for each and every Ounce so spun, mixed, wove, wrought, or set upon Silk; and that, notwithstanding the said recited Act great Frauds have been committed, by Copper or other base Metal being woven or mixed with Silk, and worked up in imitation of Gold Lace; and it hath also been a practice for persons to gild and silver Copper, Brass, or other base Metal, and to spin or weave the same upon Silk, Thread, Yarn, or Inkle, and to work up the same in imitation of, and to mix the same with Gold and Silver Lace, Fringe, Cord, Embroidery, Tambour Work, and Buttons, which have been so exactly counterfeited that the public have been greatly imposed upon thereby, which tends to the discouragement as well of the manufacture as of the exportation thereof, and to the use and wear thereof at home, to the great diminution of the Bullion of this Kingdom, inasmuch as whatever is used in gilding or silvering Copper is never recovered, and also in diminution of his Majesty's Revenue;" and then, "for remedy thereof," enacts, that from and after the passing of this

All base metal
to be spun upon
thread, yarn, or
inkle only;

on penalty of £5
per ounce;

and forfeiture of
the metal.

No gilt base
metal to be
drawn or flatted
for making lace;

Act, all Copper, Brass, and every other Metal inferior to Silver, shall be spun upon Thread, Yarn, or Inkle only, and not spun, mixed, woven, wrought, or set upon Silk; and that no person or persons whomsoever shall sell, or offer or expose to sale, or export, any Copper, Brass, or other Metal inferior to Silver, which shall be spun, mixed, woven, wrought, or set upon Silk, upon pain that each and every person offending therein shall forfeit and pay the sum of Five Pounds for one Ounce, or any quantity less than one Ounce, and the further sum of Five Pounds per Ounce for each and every quantity exceeding one Ounce, which shall be so spun, mixed, woven, wrought, or set upon Silk, or sold, or offered or exposed to sale, or exported as aforesaid, to be recovered and disposed of as herein-after is mentioned; and, for default of paying down the penalty upon Conviction, shall be committed, by the Court in which Judgment shall be given thereon, to the House of Correction for the County, City, Liberty, or Place where such person or persons shall be so convicted, there to remain, and to be kept to hard labour, for any time not exceeding the space of Six Months, nor less than three Months, or until payment be made of the said Penalty; and also upon pain that all such Copper, Brass, or other Metal inferior to Silver, which shall be so spun, mixed, woven, wrought, or set upon Silk, or sold, or offered or exposed to sale, or exported as aforesaid, shall be forfeited, one moiety thereof to the King's Majesty, his Heirs and Successors, and the other moiety thereof to such person or persons as shall sue for the same.

s. 1.

From and after the passing of this Act, no Metal inferior to Silver, which shall be gilt and drawn into Wire, or flatted into Plate, shall be spun or wrought into or upon, or mixed with Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or set upon Silk, or made into Bullion, Spangles, or Purl, or any other materials used or to be used in the making or manufacturing of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or in imitation of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or of any of the materials used or to be used in the making or manufacturing thereof, or of any of them; and that no person or persons whomsoever shall sell, or offer or expose to sale, or export, any Metal inferior to Silver, which shall be

gilt and drawn into Wire, or flatted into Plate, and spun or woven, or wrought into or upon, or mixed with Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or set upon Silk, or made into Bullion, Spangles, or Purl, or any other materials used or to be used in the making or manufacturing of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory as aforesaid, or which shall imitate, or be meant or intended to imitate, Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or any of the materials used or to be used in the making or manufacturing thereof, or of any of them, upon Pain that each and every person offending therein shall forfeit and pay the Sum of Five Pounds for one Ounce, or any quantity less than one Ounce, and the further Sum of Five Pounds per Ounce for each and every quantity exceeding one Ounce, which shall be so spun or wrought into or upon, or mixed with Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or set upon Silk, or made into Bullion, Spangles, or Purl, or any other materials used or to be used in the making or manufacturing of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or in imitation of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or of any of the materials used or to be used in the making or manufacturing thereof, or of any of them, or sold, or offered or exposed to Sale, or exported as aforesaid; and for Default of paying down the Penalty on Conviction, shall be committed, by the Court, in which Judgment shall be given thereon, to the House of Correction for the County, City, Liberty, or Place, where such Person or Persons shall be so convicted, there to remain and to be kept to hard Labour, for any Time not exceeding the Space of Six Months, nor less than Three Months, or until Payment be made of the said Penalty; and also upon Pain that all such Metal inferior to Silver, which shall be gilt and so spun or wrought into or upon, or mixed with Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or set upon Silk, or made into Bullion, Spangles, or Purl, or any other materials used or to be used in the making or manufacturing of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and

on penalty of
£5. per ounce;

and forfeiture of
the metal.

Silver Lace Manufactory, or in imitation of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or of any of the materials used or to be used in the making or manufacturing thereof, or of any of them, or sold, or offered or exposed to sale, or exported as aforesaid, shall be forfeited, One Moiety thereof to the King's Majesty, his Heirs and Successors, and the other Moiety thereof to such Person or Persons as shall sue for the same. 28 G. 3. c. 7. s. 2.

To limit the proportion of fine silver used in the copper wire;

From and after the passing of this Act, no Copper, Brass or other Metal, which shall be silvered and drawn into Wire, or flatted into Plate, or made into Bullion, Spangles, or Purl, or any other materials used or to be used in the making or manufacturing of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or in imitation of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or of any of the materials used or to be used in the making or manufacturing thereof, or of any of them, shall hold more, or bear a higher or greater Proportion than Three Pennyweight of fine Silver upon or to the Pound Weight Avoirdupois of such Copper, Brass, or other Metal; and that no Person or Persons whomsoever shall sell, or offer or expose to sale, or export, any Copper, Brass, or other Metal, which shall be silvered and drawn into Wire, or flatted into Plate, or made into Bullion, Spangles, or Purl, or any other materials used or to be used in the making or manufacturing of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or in imitation of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, or of any of the materials used or to be used in the making or manufacturing thereof, or of any of them, and which shall hold more, or bear a higher or greater Proportion than Three Pennyweight of fine Silver upon or to the Pound Weight Avoirdupois of such Copper, Brass, or other Metal, upon Pain that each and every person offending therein shall forfeit and pay the Sum of Five Pounds for One Ounce, or any quantity less than One Ounce, and the further Sum of Five Pounds per Ounce for each and every quantity exceeding One Ounce, which shall hold more, or bear a higher or greater Proportion than Three Pennyweight of fine Silver upon or to the Pound Weight Avoirdupois of such Copper, Brass, or other Metal, or shall be sold, or offered or exposed to sale, or exported, as aforesaid; and for Default of paying down the Penalty upon

on penalty of £5 per ounce;

Conviction, shall be committed, by the Court in which Judgment shall be given thereon, to the House of Correction of the County, City, Liberty, or Place, where such person or persons shall be so convicted, there to remain, and be kept to hard labour, for any time not exceeding the space of Six Months, nor less than Three Months, or until Payment be made of the said Penalty; and also upon Pain that all such Copper, Brass, or other Metal, which shall hold more or bear a higher or greater Proportion than Three Pennyweight of fine Silver upon or to the Pound Weight Avoirdupois of such Copper, Brass, or other Metal, or be sold, or offered or exposed to sale, or exported, as aforesaid, shall be forfeited, One Moiety thereof to the King's Majesty, his Heirs and Successors, and the other Moiety thereof to such person or persons as shall sue for the same. 28 G. 3. c. 7. s. 3. and forfeiture of the metal.

From and after the passing of this Act, no Copper, Brass, or other Metal inferior to Silver, whether the same be gilt, or silvered, or stained, or coloured, or otherwise, shall be worked up or mixed with Gold or Silver, in any Manufacture of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory; and that no person or persons whomsoever shall sell, or offer or expose to sale, or export, any Copper, Brass, or other Metal inferior to Silver, whether the same be gilt or silvered, or stained, or coloured, or otherwise which shall be worked up or mixed with Gold or Silver, in any manufacture of Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, upon Pain that each and every person offending therein, shall forfeit and pay the Sum of Five Pounds for One Ounce, or any quantity less than One Ounce, and the further Sum of Five Pounds per Ounce for each and every quantity exceeding One Ounce of such Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, made in the Gold and Silver Lace Manufactory, which shall be so worked up, or mixed, or sold, or offered or exposed to sale, or exported as aforesaid; and for Default of paying down the Penalty upon Conviction, shall be committed, by the Court in which Judgment shall be given thereon, to the House of Correction for the County, City, Liberty, or Place, where such person or persons shall be convicted, there to remain and be kept to hard Labour for any Time not exceeding the space of Six Months, nor less than Three Months, or until payment be made of the said Penalty; and also upon pain that all such Lace, Fringe, Cord, Embroidery, Tambour Work, or Buttons, which shall be so worked up, or mixed, or No base metal to be mixed with gold or silver.

Penalty of £5
per ounce;

and forfeiture of
the metal.

sold, or offered or exposed to sale, or exported, as aforesaid, shall be forfeited, One Moiety thereof to the King's Majesty, his Heirs and Successors, and the other Moiety thereof to such person or persons as shall sue for the same. 28 G. 3. c. 7. s. 4.

Forfeitures, half to the king and half to the informer.

All Forfeitures and pecuniary Penalties hereby imposed shall be divided and distributed in manner following; (that is to say) One Moiety thereof shall belong to the King's Majesty, his Heirs and Successors, and the other Moiety thereof, with full Costs of Suit, to the person or persons who shall inform or sue for the same in any of his Majesty's Courts of Record at Westminster, by Action of Debt, Bill, Plaint, or Information, wherein no Essoin, Protection, Privilege, or Wager of Law, nor more than one Imparlance shall be allowed. s. 5.

Lancaster (COUNTY PALATINE OF).

Continued by
9 H. 5. st. 1. c. 1.
made perpetual
by 18 H. 6. c. 12.

Henry King of England, &c. to his Chancellor in the County Palatine of Lancaster, greeting: Forasmuch as divers men of malice and envy, and for gain and revenge, have often caused to be indicted and appealed divers of our true liege People of Treasons or Felonies in the County of Lancaster, pretending by those Appeals and Indictments that the said Treasons or Felonies were committed in a certain place, where of truth no such place is had in the said County where the said Appeal and Indictment is made, considering that some so appealed and indicted dare not appeal before the Justices in their proper persons to answer thereof, for fear of beating, maiming, or killing them, by the Conspirators or procurers of the same Appeals and Indictments; it is ordained, that every Justice which hath power to hear and determine Treasons and Felonies within the said County, by the oath of twelve men (of whom every one shall have Freehold in the same County to the yearly value of one hundred shillings above all charges), before that the exigent be awarded, without allegation of the party, as well in the party's absence as his presence, shall inquire of office whether any such place be in the County where such Appeals or Indictments be made, or to be made or not; and if it be found that there is no such place within the same County, then such Appeals and Indictments, and the Process thereupon made or to be made, shall be void and holden for none; and that in such case the Indictors aforesaid be punished by Imprisonment, Fine, and Ransom, by the discretion of the said Justices; and that this present Ordinance and Remedy

Justices in the county palatine of Lancaster shall inquire of the truth of places named in appeals and indictments in that county.

extend as well to Appeals and Indictments not determined before this time, as to Appeals and Indictments to be taken hereafter; and if any Exigent from henceforth be awarded before that such Inquisition of Office as afore is said be taken, that the same exigent and the awarding thereof be likewise void and holden for none. 7 H. 5.

Larceny and Robbery.

(And see Title **PIRACY**).

I. Larceny and Robbery in the Dwelling House.

§ 1. *By Statute 23 H. 8. c. 1. s. 3. Robbing any person in the Dwelling Houses or Dwelling Place, the Owner or Dweller, his Wife, Children, or Servants, then being therein, and put in fear and dread, Felony without Clergy.*

§ 2. *By Statute 25 H. 8. c. 3. s. 1. extended to such Offenders standing Mute of Malice, or challenging peremptorily above Twenty, or not answering directly to the Indictment.*

§ 3. *By Statute 1 Ed. 6. c. 12. s. 10. persons found guilty of Breaking any House by Day or Night, any persons being therein and thereby put in fear, or confessing the same, or not answering directly, or standing wilfully Mute, ousted of Clergy.*

§ 4. *By Statute 5, 6 Ed. 6. c. 9. s. 4. Robbing persons in any part of their Dwelling Houses or Dwelling Places, the Owner, &c. his Wife, Children, or Servants being therein, or in any other place within the Precincts of the same, whether the Owner, &c. be sleeping or waking, ousted of Clergy.*

§ 5. *Breaking any Dwelling House, or any part thereof, or any Outhouse belonging and used to and with the same in the Day-time (no person then being therein), and therein feloniously taking away Money, Goods, or Chattels, being of the value of Five Shillings or upwards, Felony without Clergy by the Statute 39 Eliz. c. 15.*

§ 6. *Offenders convicted or attainted of the felonious taking Goods in a Dwelling House, any person being therein and put in fear, or robbing any Dwelling House in*

Larceny and Robbery.

the Daytime, any person being therein, or comforting, aiding, abetting, assisting, counselling, hiring, or commanding thereto, or to break any Dwelling House, Shop, or Warehouse belonging to or used therewith, in the Daytime, and feloniously take away Money, Goods, &c. of Five Shillings value, although no person therein, or standing Mute, or not answering directly to the Indictment, or peremptorily challenging above Twenty, are ousted of Clergy, by the Statute 3, 4 W. & M. c. 9. s. 1.

§ 7. *By Statute 12 Ann. st. 1. c. 7. Offenders convicted or attainted by Verdict or Confession of stealing Money, Goods, Chattels, Wares, or Merchandizes, of the value of Forty Shillings or more, being in any Dwellinghouse, or Outhouse thereto belonging, although such House, &c. is not broken, and whether any person be therein or not, or assisting or aiding to commit such Offence, or standing Mute, or not answering directly, or peremptorily challenging above Twenty, are ousted of Clergy.*

II. Larceny and Robbery in Churches, Chapels, or other Holy Places.

§ 1. *By Statute 23 H. 8. c. 1. s. 3. Offenders found guilty for Robbing of any Churches, Chapels, or other Holy places, or of abetting, procuring, helping, maintaining, or counselling of or to such Offence, ousted of Clergy.*

§ 2. *By Statute 25 H. 8. c. 3. s. 2. extended to such as stand mute of malice, or challenge peremptorily above Twenty, or not answering directly to the Indictment.*

§ 3. *By Statute 1 Ed. 6. c. 12. s. 10. Offenders attainted or convicted of felonious taking of any Goods out of any Church or Chapel, or confessing the same, or not answering directly, or standing wilfully Mute, ousted of Clergy.*

III. Larceny and Robbery in Booths or Tents in any Fair or Market.

By Statute 5, 6 Ed. 6. c. 9. Robbing any person in any Booth or Tent in any Fair or Market, the Owner, his Wife, Children, or Servants, then being therein, and whether they be sleeping or waking, ousted of Clergy.

IV. Robbery from the person in or near the Highway, or elsewhere.

§ 1. *By Statute 23 H. 8. c. 1. s. 3. Offenders convicted of Robbing any person in or near about the Highways, or of abetting, procuring, helping, maintaining, or counselling the same, ousted of Clergy.*

§ 2. *By Statutes 25 H. 8. c. 3. s. 1. and 1 Ed. 6. c. 12. s. 10. extended to such Offenders confessing the Offence, standing Mute of malice, challenging peremptorily above Twenty, or not answering directly to the Indictment.*

§ 3. *By Statute 3, 4 W. & M. c. 9. s. 1. Offenders convicted of or attainted of Robbing any other person, or of comforting, aiding, abetting, assisting, counselling, hiring, or commanding the same, or who shall stand Mute, or will not directly answer to the Indictment, or challenge peremptorily above Twenty, ousted of Clergy.*

V. Privately stealing Goods to the Value of Five Shillings in any Shop, Warehouse, Coach-house, or Stable.

By Statute 11, 12 W. 3. c. 23. s. 1. Offenders convicted or attainted of privately stealing Goods, Wares, or Merchandizes to the Value of Five Shillings, in any Shop, Warehouse, Coach-house or Stable, although such Shop, &c. be not broken, or assisting, hiring, or commanding the same, or standing Mute, not answering, &c. or challenging peremptorily above Twenty, ousted of Clergy.

VI. Larceny of Lead, Iron, or other Metal or Utensil, and of Trees, affixed to the Freehold.

§ 1. *By Statute 4 G. 2. c. 32. stealing, ripping, cutting, or breaking with intent to steal, any Lead, Iron Bar, Gate, Palisadoe, or Rail, fixed to any Dwelling-house, Outhouse, &c. or other Building, or fixed in any Garden, Fence, Outlet, &c.; or aiding, abetting, and assisting in the same, or buying or receiving the same, Felony and Transportation.*

§ 2. *By 21 G. 3. c. 68. the Provisions of the former Statute are extended to any Copper, Brass, Bell Metal, Utensil or Fixture, and to Iron Rails or Fencing set up in any Square, Court, or other*

Larceny and Robbery.

Place, and to all Aiders, Abettors, and Assisters, and to Buyers and Receivers of the same.

§ 3. *By Statute 6 G. 3. c. 36. stealing, cutting, or destroying, &c. in the Night-time any Oak, Ash, &c. or other Tree standing for or likely to become Timber, or any Root, Shrub, or Plant value Five Shillings growing in any Garden or inclosed Ground, or aiding, &c. therein, Felony and Transportation.*

§ 4. *By Statute 6 G. 3. c. 48. the same Offence if committed in the Day-time is made a Misdemeanor punishable summarily by Fine for the first and second Offence, but the third Offence is Felony and Transportation.*

VII. Larceny in Ships on Wharfs, &c. and from Vessels Wrecked, &c. or in Distress.

§ 1. *By Statute 24 G. 2. c. 45. Offenders convicted of stealing any Goods, Wares, or Merchandize value Forty Shillings, in any Ship, Barge, Lighter, &c. upon any Navigable River or Port of Entry, &c. or Creek, or upon any Wharf or Quay adjacent to any Navigable River, &c. or aiding, &c. therein, or standing Mute, &c., ousted of Clergy.*

§ 2. *By Statute 12 Ann. st. 2. c. 18. s. 5. stealing any Pump belonging to any Vessel in Distress or aiding, &c. therein, ousted of Clergy.*

§ 3. *By Statute 26 G. 2. c. 19. s. 1. plundering, stealing, or destroying any Goods, &c. from any Ship in Distress or Wrecked, &c. or cast on shore, or any of the Furniture or Tackle thereof, ousted of Clergy.*

VIII. Larceny from Bleaching Crofts, Rack or Tenters, and of Wool, &c. left out to dry, and robbing Manufactorics.

§ 1. *By 22 Car. 2. c. 5. s. 3. Offenders convicted of cutting, stealing, and taking Cloth or other Woollen Manufactures from the Rack or Tenter in the Night-time, or confessing the same, or standing wilfully mute, not directly answering, or challenging peremptorily above Twenty, ousted of Clergy.*

By Statute 51 G. 3. c. 41. stealing Linen, Fustian, Calico, Cotton, or Cotton or Linen

Yarn, &c. or Cotton Tape, Inle, Filletting, &c. or other Linen, Fustian, or Cotton Goods exposed to be printed, whitened, &c. or dried in any Bleaching Croft, &c. or Ground, or Bowking House, &c. made use of by any Calico Printer, &c. to the Value of Ten Shillings, or buying or receiving the same, Felony and Transportation for Life, &c.

§ 2. *By Statute 15 G. 2. c. 27. Persons in whose Possession Cloth or Woollen Goods remaining upon the Rack or Tenters, or Woollen Yarn or Wool left out to dry and having been stolen therefrom, shall be found, not accounting satisfactorily for such Possession, for a third Offence guilty of Felony, and may be transported.*

§ 3. *By Statute 4 G. 3. c. 37. s. 16. breaking by Day or by Night into any House, &c. or by force entering therein with intent to steal or destroy any Loom or Cloth, &c. or Implements, or cutting in Pieces such Goods, Felony and without Benefit of Clergy.*

§ 4. *By Statute 13 G. 3. c. 38. s. 29. Breaking by Day or Night into any House of the British Plate Glass Manufactory, with intent to steal or destroy Glass, &c. or Implements, or stealing any Tools or Materials, &c. Felony and Transportation.*

IX. *Larceny in Northern Counties by taking Black Mail.*

By Stat. 43 Eliz. c. 13. taking, receiving, or carrying any Money, Corn, Cattle, &c. called Black Mail, ousted of Clergy.

X. *Larceny from the Person.*

By Statute 48 G. 3. c. 129. Offenders stealing Money, &c. from the Person of another, whether privily without his Knowledge or not, but without such Force, &c. as to constitute Robbery, or being present aiding and abetting, guilty of Felony, and may be transported for Life, &c.

XI. *Maliciously by Force or Fraud taking away or decoying any Child under Ten Years of Age, with intent to deprive the Parent, &c. of the Possession of such Child, or with intent to steal the apparel, &c. Felony by 54 G. 3. c. 101.*

XII. *Larceny of Records and Choses in Action.*

§ 1. *By Statute 8 H. 6. c. 12. s. 3. stealing, taking away,*

Larceny and Robbery.

withdrawing, or avoiding Records, because whereof any Judgment shall be reversed, Felony.

§ 2. *By Statute 2 G. 2. c. 25. s. 3. stealing, or taking by Robbery, Exchequer Bills, Tallies, Orders, Bank Notes, South Sea Bonds, &c. Bills of Exchange, Debentures, or other Bonds, &c. Bills or Promissory Notes, notwithstanding such Particulars are termed a Chose in Action, Felony.*

XIII. *Robbing the Mail, and Larceny of Letters and Packets sent by the Post; (and see Division XX. iv.)*

By Statutes 5 G. 3. c. 25. and 7 G. 3. c. 50. Robbing the Mail of any Letter, &c., or Bag, &c. of Letters, or stealing thereout, or out of any Post Office, &c. any Letter or Packet, ousted of Clergy.

XIV. *Stealing or embezzling Public Stores.*

§ 1. *By Statute 31 Eliz. c. 4. imbezilling, purloining, &c. any Armour, Ordnance, Munition, Shot, Habili-ments of War, or Victuals, value 20s. for lucre, &c. or to hinder, &c. the Service, by Persons having the Charge, &c. thereof, Felony.*

§ 2. *By 22 Car. 2. c. 5. such Offenders are ousted of Clergy, and extended to all who shall feloniously steal or imbezil Sails, Cordage, or other his Majesty's Naval Stores, value 20s.*

§ 3. *By Statute 9, 10 W. 3. c. 41. unauthorized Persons making Stores of War, or Naval or Ordnance Stores, with the King's Marks thereon, a Misdemeanor.*

Persons in whose Custody, &c. such marked Stores are found, and Persons concealing such Stores, likewise guilty of a Misdemeanor.

§ 4. *By Statute 39, 40 G. 3. c. 89. s. 1. Persons knowingly, &c. selling or delivering, or knowingly receiving or having in possession, &c. such Stores, shall be deemed Receivers of Stolen Goods, and be transported.*

By s. 2. Persons in whose Possession marked Canvass is found, shall be guilty of a Misdemeanor, and punished by Fine and Corporally.

By s. 4. defacing or endeavouring to deface Marks, Felony and Transportation.

By s. 8. Persons discovering and apprehending Offenders, shall receive a Reward of £20, &c.

Summary Proceedings against Persons having in possession, &c., selling, receiving, &c., marked Stores, not exceeding 20s. in value, ss. 18, 19, 20, 21, &c.

Against Persons having in possession, &c. unmarked Stores, ss. 11, 12, 13. 16, &c.

Forging any Certificate, Bill of Parcels, or other Instrument, or knowingly uttering same, a Misdemeanor by s. 26.

By Statute 52 G. 3. c. 12. all the Powers, &c. of 22 Car. 2. c. 5., 9, 10 W. 3. c. 41., 9 G. 1. c. 8., 17 G. 2. c. 40., and 39, 40 G. 3. c. 89. are extended to Ireland.

§ 5. *By Statute 54 G. 3. c. 60. the Provisions of 9, 10 W. 3. c. 41. and 39, 40 G. 3. c. 89. extended to making, selling, &c. receiving, or having in possession, Cordage wrought with Worsted Threads.*

§ 6. *By Statute 55 G. 3. c. 127. all the Provisions, Pains, Forfeitures, Regulations, &c. contained in 9, 10 W. 3. c. 41., 9 G. 1. c. 8., 17 G. 2. c. 40., and 39, 40 G. 3. c. 89. relating to his Majesty's Naval, Ordnance, and Victualling Stores, extended to all Public Stores whatsoever, marked in any way.*

XV. *Breaking or by Force entering into any Mine, &c. of Black Lead, &c. with intent to steal, or stealing any Black Lead, Wad, &c.*

By Statute 25 G. 2. c. 10. breaking or by Force entering into any Mine, Wad, Hole, &c. of Wad, &c. or Black Lead, or any Shaft, &c. thereof, with intent to steal, or stealing any such Materials, or aiding therein, Felony and Transportation.

XVI. *Larceny of Fish in any River, Pond, &c. or Stream of Water.*

§ 1. *By Statute 9 G. 1. c. 22. Persons armed and disguised stealing Fish out of any River, Pond, or rescuing such Offenders, or procuring others to join therein, ousted of Clergy.*

§ 2. *By 22, 23 Car. 2. c. 25. s. 7. taking any Fish, by any Means or Device, in any River, Stew, Pond, &c. or aiding therein, a Misdemeanor, finable before a Magistrate.*

§ 8. *By 5 G. 3. c. 14. entering into any inclosed Park, &c., or into any Garden, &c. belonging to any Dwelling-house, and stealing or destroying Fish*

Larceny and Robbery:

bred or kept therein, or aiding, &c. therein, or knowingly receiving or buying such Fish, made a transportable Misdemeanor.

XVII. *Larceny of Oysters in the Lays.*

By Statute 48 G. 3. c. 144. knowingly and wilfully stealing, &c. Oysters or Oyster-brood from any Oyster-bed, &c. Felony and Transportation.

XVIII. *Larceny by Lodgers.*

By Statute 3, 4 W. & M. c. 9. s. 5. taking away, with intent to steal, imbezil, or purloin, any Chattel, Bedding, or Furniture let by Contract, to be used with Lodgings, Felony.

XIX. *Embezzlement and Larceny by Servants in general.*

§ 1. *By Stat. 33 H. 8. c. 6. Household Servants taking or spoiling their Master's Goods, how to be proceeded against.*

§ 2. *By Stat. 21 H. 8. c. 7. Servants embezzling their Master's Caskets, Jewels, Money, or Goods intrusted to them, to the value of 40s. guilty of Felony.*

§ 3. *By Stat. 39 G. 3. c. 85. Clerks, Servants, &c. embezzling, secreting, &c. Money, Goods, or valuable Security, received and taken in their possession for and on account of their Master or Employer, and their Aiders, &c., guilty of Felony.*

XX. *Embezzlement and Larceny by Servants of Public Companies and by Public Officers, &c.*

i. *Servants of the Bank of England intrusted with any Note, &c. Security, Money, or Effects belonging to the Company, secreting, &c., or running away with the same, ousted of Clergy by 15 G. 2. c. 13. s. 12., 35 G. 3. c. 66., and 37 G. 3. c. 46. s. 6.*

ii. *Servants of the South Sea Company committing a like Offence ousted of Clergy by 24 G. 2. c. 11. s. 3.*

iii. *Embezzlement of Money or Securities for Money belonging to the Public, by any Banker, Broker, Agent, Collector, &c. intrusted with the Deposit or Receipt thereof, a Misdemeanor, transportable by 50 G. 3. c. 59. and 52 G. 3. c. 63.*

iv. *Embezzlement and Larceny by persons employed in the Post Office, or in any business relating to the Post Office, of any Letter or Bank Note or other Security or any part thereof contained therein, or destroying Letters, &c. a capital Felony by 5 G. 3. c. 25. s. 17., 7 G. 3. c. 50. s. 1., and 42 G. 3. c. 81. s. 1.*

Persons intrusted to take in Letters, &c. embezzling the Postage, &c. guilty of Felony.

Persons secreting, &c., or detaining, &c. Bags, &c. of Letters, guilty of a Misdemeanor by 42 G. 3. c. 81. s. 4.

v. Embezzlement by persons employed in certain Manufactories, how punishable by 17 G. 3. c. 56.

XXI. *Accessaries in Larceny and Robbery, how far ousted of Clergy by the several Statutes.*

XXII. *Trial of Offenders committing Larceny, Robbery, or Burglary in one part of the Kingdom, and being found with the Goods in another part thereof, by the Statute 23 H. 8. c. 8. and 13 G. 3. c. 31. s. 4.*

XXIII. *Restitution of Stolen Goods.*

Owner of Money, Goods, &c. stolen, and prosecuting the Offenders, shall be restored to his Money, Goods, &c. by Stat. 21 H. 8. c. 11.

Advertizing a reward for the return of things stolen, subjects the party to a fine of £50 by the Statute 25 G. 2. c. 36. s. 1.



I. Larceny and Robbery in the Dwelling-house.

No person nor persons which hereafter shall happen to be found guilty after the Laws of this Land for any manner of Petit Treason, or for any wilful Murder of malice prepensed, or for Robbing of any Churches, Chapels, or other Holy Places, or for Robbing of any person or persons in their Dwelling houses or Dwelling place, the owner or dweller in the same house, his wife, his children, or servants then being within, and put in fear and dread by the same, or for robbing of any person or persons in or near about the Highways, or for wilful burning of any Dwelling houses or Barns wherein any Grain of Corns shall happen to be; nor any person or persons being found guilty of any abetment, procurement, helping, maintaining, or counselling of or to any such Petit Treasons, Murders, or Felonies, shall from henceforth be admitted to the benefit of his or their Clergy, but utterly be excluded thereof, and suffer Death in such manner and form as they should have done for any the causes or offences aforesaid, if they were no Clerks; such as be within holy orders, that is to say, of the orders of Subdeacon or above, only except. 23 H. 8. c. 1. s. 8.

This Statute is made perpetual by the Statute 32 H. 8. c. 3. s. 7.

§ 1.

Offenders committing robberies in dwelling-houses excluded clergy.

Co. pl. 352.

3 Inst. 64. 67. 115.

Kel. 67. 69.

11 Co. 29.

1 Bulstr. 112.

Dyer, f. 224.

§ 2.

Such offenders
standing mute,
&c. shall lose
their clergy.

The Statute 25 H. 8. c. 3. s. 1. recites the Statute 23 H. 8. c. 1. and that the said Act extended only to such persons as were found guilty *after the due course of the Laws of the Land*, by reason whereof many offenders, upon their arraignment, did stand mute, or challenged peremptorily above the number of twenty, or else would not answer directly to the Indictment, whereby they had the benefit of their Clergy; and for that those especial cases were not expressly comprized and contained within the letter of the same Statute; and that it was necessary and expedient that the same cases should be clearly and definitively expounded and declared by authority of Parliament; and then (by s. 2.) enacts, that every person and persons that is or hereafter shall be indicted of Petit Treason, wilful Burning of Houses, Murther, Robbery, or Burglary, or other Felony, according to the tenor and meaning of the same Statute, and thereupon arraigned and do stand mute of malice or froward mind, or challenge peremptorily above the number of twenty, or else will not or do not answer directly to the same Indictment and Felony whereupon he is so arraigned, shall from henceforth lose the benefit and privilege of his or their Clergy, in like manner and form as if he had directly pleaded to the same Petit Treason, Murther, Robbery, Burglary, or other Felony whereupon he is so arraigned, Not Guilty, and thereupon had been found Guilty after the Laws of the Land.

The above Statute of 25 H. 8. is made perpetual by Statute 32 H. 8. c. 3. s. 7.

§ 3.

Offenders break-
ing any house by
day or night, any
person being
therein and put
in fear, ousted
of clergy.

The Statute 1 Edw. 6. c. 12. s. 10. enacts, that no person or persons that at any time hereafter shall be in due form of the Laws attainted or convicted of breaking of any House by Day or by Night, any person being then in the same House where the same breaking hereafter shall be committed, and hereafter shall be thereby put in fear or dread, or being indicted or appealed of any of the same Offences (1), and thereupon found guilty by Verdict of Twelve Men, or shall confess the same upon his or their Arraignment, or will not answer directly according to the Laws of this Realm, or shall stand wilfully or of malice mute, shall not be admitted to have or enjoy the Privilege or Benefit of his Clergy or Sanctuary, but shall be put from the same; and that in all other cases of Felony, other than such as are before mentioned, all and singular person and

(1) Many offences are specified in this section of the Act which see under their appropriate divisions under this title.

persons which after 1 March next coming shall be arraigned or found guilty upon his or their Arraignment, or shall confess the same, or stand mute in form aforesaid, or will not answer directly in form aforesaid, shall have and enjoy the Privilege and benefit of his or their Clergy, the Liberty and Privilege of Sanctuary, in like manner and form as he or they ought or should have done before the 24 April in the First Year of the Reign of King Henry the Eighth. (1)

The Statute 5, 6 Edw. 6. c. 9. s. 2. reciting the Statute 23 H. 8. c. 1. (which was made perpetual by Statute 32 H. 8. c. 3.), and that since the making thereof it had been doubted whether if such Robberies and Felonies had been committed in Dwelling-houses, the Owner or Dweller in the same House, his Wife, his Children or Servants, being put in fear, the Offender should lose the Benefit of their Clergy, unless the same Robbery or Felony were committed in the very Chamber, House, or Place where the Owner or Dweller in the same House, his Wife, Children or Servants, should happen to be or lie at the time of such Robbery and Felony committed, although the Owner, &c. at the time of such Robbery and Felony committed were or lay in other Place within the Precinct of the same Dwelling-houses nigh unto the House or Place where such Robbery and Felony be done, or if it happen that the Owner, &c. to be asleep at the time of such Robbery and Felony committed, although the same Robbery were done in the Chamber or Place where the Owner, &c. then lay, the Offenders being found guilty thereof, should not lose the Benefit of his Clergy; enacts and declares (s. 4.), that if it happen any person or persons to be found guilty, according to the Laws of this Realm, for robbing of any person after the First Day of May next ensuing, in any part or parcel of their Dwelling-houses or Dwelling-places, the Owner or Dweller in the same House, or his Wife, his Children, or Servants, being then within the same House or Place where it shall happen the same Robbery and Felony to be committed, or in any other Place within the Precinct of the same House or Dwelling place; such Offenders shall in no wise be admitted to his Clergy, whether the Owner or Dweller in the same House, his Wife or Children then and there being, shall be waking or sleeping.

§ 4.
Offenders robbing another in dwelling houses, or the precincts thereof, whether the owner, &c. be waking or sleeping, ousted of clergy.

The Statute 39 Eliz. c. 15. reciting (s. 1.) that whereas of late Years persons understanding that the penalty of the robbing of

§ 5.
Persons stealing money or goods

(1) See title CLERGY, BENEFIT OF, § 2.

in a dwelling house, &c. in the day time, to the amount of 5s. though no person be therein, debarred the benefit of clergy.
 3 Inst. 65.
 2 Hawk. P. C. 33.
 Kelyng, 31.
 4 Co. 40.
 Cro. Car. 473.

Houses in the Day-time (no person being in the House at the time of the Robbery) is not so penal as to commit or do a Robbery in any House, any person being therein at the time of the Robbery; which hath emboldened persons to watch their opportunity to commit heinous Robberies in breaking and entering persons Houses, and especially of the poorer sort of People, who by reason of their poverty are not able to keep any Servant, or otherwise to leave any body to look to their House when they go abroad to hear Divine Service, or from home to follow their labour to get their living; enacts (s. 2.), that if any person or persons shall be found guilty and convicted by verdict, confession, or otherwise, according to the Laws of this Realm for the felonious taking away in the Day-time of any Money, Goods, or Chattel, being of the Value of Five Shillings or upwards, in any Dwelling House or Houses, or any part thereof, or any Outhouse or Outhouses belonging and used to and with any Dwelling House or Houses, although no person shall be in the said House or Outhouses at the time of such Felony committed, then such person and persons shall not be admitted to the Benefit of his or their Clergy, but shall be utterly excluded thereof.

§ 6.
 Offenders robbing any dwelling house in the day-time, whether any one be or be not within, or standing mute, &c. or aiding, counselling, &c. therein, or challenging above 20, ousted of clergy.

All and every person and persons that shall at any time hereafter feloniously take away any Goods or Chattels, being in any Dwelling House, the Owner or any other person being therein and put in fear, or shall rob any Dwelling House in the Day-time, any person being therein, or shall comfort, aid, abet, assist, counsel, hire, or command any person or persons to commit any of the said Offences, or to break any Dwelling House, Shop, or Warehouse, thereunto belonging, or therewith used, in the Day-time, and feloniously take away any Money, Goods, or Chattel of the value of Five Shillings or upwards, therein being, although no person shall be within such Dwelling House, Shop, or Warehouse, being thereof convicted or attainted, or being indicted thereof, shall stand mute, or will not directly answer to the Indictment, or shall peremptorily challenge above the number of Twenty Persons returned to be of the Jury, shall not have the Benefit of his or their Clergy.
 3 W. & M. c. 9. s. 1. This Act is continued by
 4, 5 W. & M. c. 24. s. 13.; and made perpetual by
 6, 7 W. 3. c. 14. s. 1.

§ 7.
 Persons stealing to the value of 40s. in any dwel-

Forasmuch as divers wicked and ill-disposed Servants and other persons are encouraged to commit Robberies in Houses by the privilege, as the Law now is, of demanding the Benefit

of their Clergy; be it therefore enacted, that all and every person or persons that shall at any time from and after 1st July 1713, feloniously steal any Money, Goods, or Chattels, Wares or Merchandizes, of the value of Forty Shillings or more, being in any Dwelling House or Outhouse thereunto belonging, although such House or Outhouse be not actually broken by such Offender, and although the Owner of such Goods, or any other person or persons, be or be not in such House or Outhouse, or shall assist or aid any person or persons to commit any such Offence, being thereof convicted or attainted by Verdict or Confession, or being indicted thereof shall stand mute, or will not directly answer to the Indictment, or shall peremptorily challenge above the number of Twenty returned to be of the Jury, shall by virtue of this Act be absolutely debarred of and from the Benefit of Clergy, any Law or Custom to the contrary notwithstanding. 12 Ann. st. 1. c. 7.

ling house, or outhouse thereto belonging, shall lose their clergy.

Nothing in this Act shall extend to Apprentices under the age of Fifteen Years who shall rob their Masters as aforesaid. s. 2.

II. Larceny and Robbery in Churches, Chapels, or other Holy Places.

No person nor persons which hereafter shall happen to be found guilty after the Laws of this Land for any manner of Petit Treason, or for any wilful Murder of malice prepensed, or for robbing of any Churches, Chapels, or other Holy Places, or for robbing of any person or persons in their Dwelling-houses or Dwelling place, the owner or dweller in the same House, his wife, his children or servants then being within, and put in fear and dread by the same, or for robbing of any person or persons in or near about the Highways, or for wilful burning of any Dwelling houses or Barns wherein any Grain of Corns shall happen to be, nor any person or persons being found guilty of any abetment, procurement, helping, maintaining, or counselling of or to any such Petit Treasons, Murders, or Felonies, shall from henceforth be admitted to the benefit of his or their Clergy, but utterly be excluded thereof, and suffer Death in such manner and form as they should have done for any the causes or offences aforesaid if they were no Clerks; such as be within holy orders, that is to say, of the orders of sub-deacon or above, only except. 23 H. 8. c. 1. s. 3.

§ 1.

Persons robbing churches, chapels, or other holy places, excluded from the benefit of clergy. Co. pl. f. 352. 3 Inst. 64. 67. 115. Kel. 67—69. Dyer, f. 224. 11 Co. 29. 1 Bulstr. 112.

This Statute is made perpetual by the Statute 32 H. 8. c. 3. s. 7.

§ 2.

Such offenders
standing mute,
&c. ousted of
clergy.

The Statute 25 H. 8. c. 3. (for the preamble to which see division I. s. 2. of this Title) enacts (s. 2.) that every person and persons that is or hereafter shall be indicted of Petit Treason, wilful burning of Houses, Murther, Robbery, or Burglary, or other Felony, according to the tenor and meaning of the same Statute, (23 H. 8. c. 1.) and thereupon arraigned and do stand mute of malice or froward mind, or challenge peremptorily above the number of twenty, or else will not or do not answer directly to the same Indictment and Felony whereupon he is so arraigned, shall from henceforth lose the benefit and privilege of his or their Clergy, in like manner and form as if he had directly pleaded to the same Petit Treason, Murther, Robbery, Burglary, or other Felony whereupon he is so arraigned, Not Guilty, and thereupon had been found guilty according to the Laws of the Land.

This Statute is also made perpetual by 32 H. 8. c. 3. s. 7.

§ 3.

The Statute 1 Ed. 6. c. 12. s. 10. enacts, that no person or persons that at any time hereafter shall be in due form of the Laws attainted or convicted of felonious taking of any Goods out of any Parish Church, or other Church or Chapel, or being indicted or appealed of any of the same offences (1), and thereupon found guilty by verdict of twelve men, or shall confess the same upon his or their arraignment, or will not answer directly, according to the Laws of this Realm, or shall stand wilfully or of malice mute, shall not be admitted to have or enjoy the privilege or benefit of his Clergy or Sanctuary, but shall be put from the same.

III. *Larceny and Robbery in Booths or Tents in any Fair or Market.*

§ 1.

Persons robbing
booths or tents
in markets or
fairs, declared
guilty of felony,
without clergy.

The preamble to the Statute 5, 6 Ed. 6. c. 9. recites (s. 3.) that “it hath been in question and doubted, that if such Robberies and Felonies [as described in the Statute 23 H. 8. c. 1. which see under divisions I. and II. of this title] happen to be committed and done in any Booth or Booths, Tent or Tents, in any Fair or Market, the Owner of the same, his Wife, Children, or Servants happening to be within the same at the time of the committing of such Felonies, and put in Fear and Dread, the Offenders therein being found Guilty after the Laws of this Realm, should not lose the benefit of their Clergy; and then

(1) Many different offences are specified in this Statute, for which see the several divisions under this title.

(by s. 5.) for the true declaration and explanation of the same doubts or questions before recited, enacts, that no person or persons which after the said first day of May (1), shall happen to be found guilty after the Laws of this Realm of or for Robbing any person or persons in any Booth or Tent in any Fair or Market, the Owner, his Wife, his Children, or Servants or Servant, then being within the same Booth or Tent, shall not from henceforth be admitted to the benefit of his or their Clergy, but utterly be excluded thereof, and suffer death in such manner and form as is mentioned in the said Statute [23 H. 8. c. 1.] for Robberies and Felonies committed and done in Dwelling Houses and Dwelling Places, the Owner or Dweller in the same, his Wife, Children, or Servants, then being within the same, and put in Fear and Dread, without having any respect or consideration whether the Owner or Dweller in such Booths and Tents, his Wife, Children, or Servants, being in the same Booths or Tents at the time of such Robberies and Felonies committed, shall be sleeping or waking.

IV. Robbery from the Person in or near the Highway or elsewhere.

The Statute 23 H. 8. c. 1. (s. 3.) enacts, that no person nor persons which hereafter shall happen to be found guilty after the Laws of this Land, for robbing of any person or persons in or near about the Highways, nor any person or persons being found guilty of any Abetment, Procurement, helping, maintaining, or counselling of or to any such Felonies (2), shall from henceforth be admitted to the benefit of his or their Clergy, but utterly be excluded thereof, and suffer death in such manner and form as they should have done for any the causes or offences above said (2), if they were no Clerks; such as be within holy orders, that is to say, of the orders of Sub-deacon or above, only except.

This Statute is made perpetual by Stat. 32 H. 8. c. 3. s. 7.

The Statute 25 H. 8. c. 3. s. 1. (for the preamble to which see this title Division I. § 2.) recites the Stat. 23 H. 8. c. 1. and then by s. 2. enacts, that every person and persons that is or hereafter shall be indicted of Petit Treason, wilful burning of

§ 1.
Offenders committing robbery in or near the highway, shall not be allowed their clergy.
3 Inst. 64. 67.
115.
Kel. 67—69.
Dyer, f. 224.
11 Co. 29.
1 Bulstr. 112.

§ 2.
Extending to such persons standing mute, &c.

(1) *Next ensuing*, which are the words mentioned in the fourth section, which see Division I. s. 4. of this title.

(2) Many different offences are specified, which see under the appropriate divisions of this title.

Houses, Murther, Robbery, or Burglary, or other Felony according to the tenor and meaning of the same Statute [23 H. 8. c. 1.], and thereupon arraigned and do stand mute of malice or froward mind, or challenge peremptorily above the number of twenty, or else will not or do not answer directly to the same Indictment and Felony whereupon he is so arraigned, shall from henceforth lose the benefit and privilege of his or their Clergy, in like manner and form as if he had directly pleaded to the same Petit Treason, Murther, Robbery, Burglary, or other Felony whereupon he is so arraigned, and thereupon had been found guilty after the Laws of the Land.

This Statute is made perpetual by Stat. 32 H. 8. c. 3. s. 7.

The Statute 1 Ed. 6. c. 12. (s. 10.) enacts, that no person or persons that at any time hereafter shall be in due form of the Laws attainted or convicted of Murder of Malice prepensed, &c. (1), or of or for robbing of any person or persons in the Highway or near to the Highway, or being indicted or appealed of any of the same offences, and thereupon found guilty by verdict of twelve men, or shall confess the same upon his or their Arraignment, or will not answer directly according to the Laws of this Realm, or shall stand wilfully or of malice mute, shall not be admitted to have or enjoy the Privilege or Benefit of his Clergy or Sanctuary, but shall be put from the same.

§ 3.
Persons robbing
another, or aid-
ing, &c. therein,
or standing mute,
or challenging
above 20, &c.
ousted of clergy.

All and every person and persons that shall at any time hereafter rob any other person, or shall comfort, aid, abet, assist, counsel, hire, or command any person or persons to commit the said Offence, being thereof convicted or attainted, or being indicted thereof shall stand mute, or will not directly answer to the Indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the Jury, shall not have the Benefit of his or their Clergy. 3 W & M. c. 9. s. 1.

This Act is continued by 4, 5 W. & M. c. 24. s. 13. and made perpetual by 6, 7 W. 3. c. 14. s. 1.

V. Privately stealing Goods to the value of Five Shillings in any Shop, Warehouse, Coach-house or Stable.

§ 1.
Persons stealing
goods, &c. pri-
vately in any

Whereas the crime of stealing Goods privately out of Shops and Warehouses, commonly called Shoplifting, is of late years much increased, to the great detriment and unspeakable loss of

(1) Many different offences are specified, which see under the appropriate divisions under this title.

many of your Majesty's good Subjects, occasioned for want of due prosecution and punishment of Offenders therein, and for want of encouragement to such as shall vigorously endeavour the apprehending of such Malefactors; for preventing whereof, be it enacted, that all and every person and persons that shall at any time and times, by Night or in the Day-time, from and after May 20, 1699, in any Shop, Warehouse, Coach-house or Stable, privately and feloniously steal any Goods, Wares, or Merchandizes, being of the value of Five Shillings or more, (although such Shop, Warehouse, Coach-house or Stable be not actually broke open by such Offender or Offenders, and although the Owners of such Goods, or any other person or persons be or be not in such Shop, Warehouse, Coach-house or Stable, to be put in fear), or shall assist, hire, or command any person or persons to commit such Offence, being thereof convicted or attainted by Verdict or Confession, or being indicted thereof shall stand mute, or will not directly answer to the Indictment, or shall peremptorily challenge above the number of Three and twenty Persons (1) returned to be of the Jury, shall by virtue of this Act be absolutely debarred and excluded of and from the Benefit of the Clergy. 10, 11 W. 3. c. 23. s. 1.

shop, warehouse, coach-house, or stable, to the value of 5s. or assisting therein, or hiring, &c. thereto, excluded the benefit of clergy.

VI. Larceny of Lead, Iron, or other Metal, or Utensils, and of Trees affixed to the Freehold.

Whereas the pernicious practice of stealing Lead, Iron Bars, Iron Gates, Iron Palisadoes, and Iron Rails, fixed to Dwelling Houses, Outhouses, Coach-houses, Stables, and other Buildings, and fixed in Gardens, Orchards, Court-yards, Fences, and Out-lets belonging to Dwelling Houses and other Buildings, hath of late time been much used, to the great detriment of his Majesty's Subjects; and it is necessary, for the more effectual preventing of such Offences, to inflict a more exemplary Punishment on such Offenders than by the Laws of this Realm can now be done; be it therefore enacted, that from and after the 24th June 1731, all and every person and persons who shall steal, rip, cut or break, with intent to steal, any Lead, Iron Bar, Iron Gate, Iron Palisadoe, or Iron Rail whatsoever, being fixed to any Dwelling House, Outhouse, Coach-house, Stable, or other Building used or occupied with such Dwelling House or thereunto belonging, or to any other Building whatsoever, or fixed in any Garden, Orchard, Court-yard, Fence,

§ 1.

Persons stealing, or ripping, cutting, &c. with intent to steal, any lead, iron, &c. fixed to any dwelling house, outhouse, stable, &c. or other building, or in any garden, orchard, outlet, &c. guilty of felony, and may be transported for seven years.

(1) This is the only instance, it is believed, in which a peremptory challenge to such an extent in Larceny is allowed.

Aiders and receivers liable to the same punishment.

or Outlet belonging to any Dwelling House or other Building shall be deemed and construed to be guilty of Felony; and every such Felon and Felons shall be subject and liable to the like Pains and Penalties as in cases of Felony; and the Court by and before whom such person or persons shall be tried, shall and hereby have power and authority to transport such Felons for the space of Seven Years, in like manner as other Felons are directed to be transported by the Laws and Statutes of this Realm; and all and every person and persons who shall be aiding, abetting, or assisting in stealing, or in such ripping, cutting, or breaking any Lead, Iron Bar, Iron Gate, Iron Palisadoe, or Iron Rail, fixed to any Dwelling House, Outhouse, Coach-house, Stable, or other Building, or fixed in any Garden, Orchard, Court-yard, Fence, or Outlet belonging to any Dwelling House or other Building, or who shall buy or receive any such Lead, Iron Bar, Iron Gate, Iron Palisadoe, or Iron Rail, knowing the same to be stolen, shall be subject and liable to the same Punishments as if he, she, or they had stolen the same, any Law to the contrary in anywise notwithstanding. 4 G. 2. c. 32.

§ 2.

Persons stealing, or ripping, &c. with such intent, any copper, brass, bell metal, &c. fixed to any dwelling house, &c.;

The Statute 21 G. 3. c. 68. intituled "An Act to explain and amend" the Statute 4 G. 2. c. 32. recites that Statute, and that "the stealing of Copper, Brass, and Bell-metal affixed to Dwelling Houses and the Appurtenances thereto, is not expressly prohibited and made punishable by the said recited Act, whereby wicked and evil-disposed persons have been encouraged to steal the same, and others to buy and receive the same, knowing the same to be stolen;" and then, "for preventing thereof," enacts, that from and after 1st August 1781, all and every person and persons who shall steal, rip, cut, break, or remove, with intent to steal, any Copper, Brass, Bell-metal, Utensil, or Fixture, being fixed to any Dwelling House, Outhouse, Coach-house, Stable, or other Building used or occupied with such Dwelling House, or thereunto belonging, or to any other Building whatsoever, or fixed in any Garden, Orchard, Court-yard, Fence, or Outlet belonging to any Dwelling House or other Building, or any Iron Rails or Fencing set up or fixed in any Square, Court, or other place (such person having no title or claim of title thereto), shall be deemed and construed to be guilty of Felony; and the Court by and before whom such person or persons shall be tried and convicted, shall and hereby have power and authority to transport such Felons for the term of Seven Years, in like manner as other Felons are directed to be transported by the Laws and Statutes of this Realm; or to order and direct that such Offender be

kept and detained in Prison, and therein kept to Hard Labour, for any time not exceeding Three Years, nor less than One Year; and within that time, if such Court shall think fit, such Offender shall be once or oftener, but not more than Three Times, publicly whipped: And all and every person and persons who shall be aiding, abetting, or assisting in stealing, or in such ripping, cutting, breaking, or removing any Copper, Brass, Bell-metal, Utensil, or Fixture, fixed to any Dwelling House, Out-house, Coach-house, Stable, or other Building, or fixed in any Garden, Orchard, Court-yard, Fence, or Outlet belonging to any Dwelling House or other Building, or any Iron Rails or Fencing set up or fixed in any Square, Court, or other place; or who shall buy or receive any such Copper, Brass, Bell-metal, Utensil, or Fixture, Iron Rails or Fencing, knowing the same to be stolen, shall be subject and liable to all and every the same Punishments, Pains, and Penalties, as if he, she, or they had stolen the same, although the principal Felon or Felons has not or have not been convicted of stealing the same, any Law to the contrary in anywise notwithstanding.

and persons assisting therein, or knowingly buying such goods, declared guilty of felony.

The Stat. 6 G. 3. c. 36. recites that persons have of late years wilfully and maliciously cut down, barked or otherwise destroyed Timber Trees, and Trees standing for and likely to become Timber, growing as well in the several Forests, Chases, and other open Grounds, as in the Woods and Plantations and inclosed Grounds within this Kingdom, to the great detriment of the Owners of such Trees, and to the discouragement of Planting in general, so beneficial to Great Britain; and that the disposition of Nurserymen to improvements in Planting and Gardening through Great Britain, is also of great use to the Public, and many Nurserymen, Gardeners and others have collected and cultivated, at great expense, Roots, Shrubs, and Plants of every Country, and imported, cultivated, and exported great quantities thereof, and do thereby support themselves and many others of his Majesty's Subjects; and that many evil disposed persons, well knowing the value of such Roots, Shrubs, and Plants, have of late years frequently entered into Nurseries, Gardens, and other inclosed Grounds in general, and of the Nurserymen and Gardeners in particular, and have dug up, taken or carried away out of such Nurseries, Gardens, and Grounds, Roots, Shrubs, and Plants, and likewise destroyed others on the spot, to a very considerable value; and then enacts, that from and after 2d June 1766, all and every person and persons who shall in the night-time lop, top, cut down,

§ 3.

See 9 G. 3. c. 41.
10 G. 3. c. 30.

Persons in the night cutting down, &c. or destroying timber

trees, or plucking up, &c. any plants, &c. in any inclosed grounds, shall be guilty of felony ;

and may be transported for seven years.

Aiders and receivers shall also be guilty of felony.

break, throw down, bark, burn, or otherwise spoil or destroy, or carry away any Oak, Beech, Ash, Elm, Fir, Chestnut, or Asp, Timber Tree, or any other Tree or Trees standing for Timber, or likely to become Timber, without the consent of the Owner or Owners thereof first had and obtained ; or shall in the nighttime pluck up, dig up, break, spoil or destroy, or carry away any Root, Shrub or Plant, Roots, Shrubs, or Plants, of the value of Five Shillings, and which shall be growing, standing or being in the Garden Ground, Nursery Ground, or other inclosed Ground of any person or persons, shall be deemed and construed to be guilty of Felony ; and every such person or persons shall be subject and liable to the like Pains and Penalties as in cases of Felony ; and the Court by and before whom such person or persons shall be tried, shall and hereby have authority to transport such person or persons for the space of Seven Years to any of his Majesty's Plantations in America, in like manner as other Felons are directed to be transported by the Laws and Statutes of this Realm ; and all and every person and persons who shall be wilfully aiding, abetting or assisting in such cutting down, breaking, throwing down, barking, burning, or otherwise spoiling or destroying or carrying away any such Oak, Beech, Ash, Elm, Fir, Chestnut, or Asp, Timber Tree, or other Tree or Trees standing for Timber, or likely to become Timber as aforesaid ; or in such plucking up, digging up, cutting, breaking, spoiling or destroying, or carrying away such Root, Shrub, or Plant, Roots, Shrubs, or Plants as aforesaid, of the value aforesaid ; or who shall buy or receive such Root, Shrub, or Plant, Roots, Shrubs or Plants, of the value aforesaid, knowing the same to be stolen, shall be subject and liable to the same punishment as if he, she or they had stolen the same ; any Law to the contrary in anywise notwithstanding. See the Statute 6 G. 3. c. 48. s. 3. post, p. 438.

§ 4.

Persons cutting, &c. timber trees shall for the third offence be guilty of felony.

See 9 G. 3. c. 41.
10 G. 3. c. 30.

The Statute 6 G. 3. c. 48. recites that the preservation of Timber Trees, or Trees likely to become Timber, is of great consequence to this Kingdom ; and then enacts, that from and after 24 June 1766, every person who shall wilfully cut or break down, bark, burn, pluck up, lop, top, crop, or otherwise deface, damage, spoil, or destroy, or carry away any Timber Tree or Trees, or Trees likely to become Timber, or any part thereof, or the lops or tops thereof, without the consent of the owner or owners thereof first had and obtained, or in any of his Majesty's Forests or Chaces, without the consent of the Surveyor or Surveyors, or his or their deputy or deputies, or person or persons intrusted with the care of the same, and shall be thereof convicted before any Justice of the Peace, &c. shall forfeit

for the first offence a sum not exceeding £20, &c. for a second offence not exceeding £30, &c.; and if any person so convicted shall be guilty of the like Offence a third time, and shall be thereof convicted in like manner (1), such person shall be deemed guilty of Felony, and the Court by and before whom such person shall be tried, shall and hereby hath authority to transport such person or persons for the space of Seven Years to any of his Majesty's Plantations in America, in like manner as other Felons are directed, to be transported by the Laws and Statutes of this Realm. s. 1.

All Oak, Beech, Chesnut, Walnut, Ash, Elm, Cedar, Fir, Asp, Lime, Sycamore, and Birch Trees, shall be deemed and taken to be Timber Trees within the true meaning and provision of this Act. s. 2.

What shall be deemed timber trees.

The Statute 13 G. 3. c. 33. recites the first and second sections of the foregoing Act, 6 G. 3. c. 48.; and that "doubts have arisen since the passing of the said Act, whether Trees shall be deemed and taken to be Timber Trees, other than such as are declared so to be by the said Act;" and then "for the better preservation of the several useful and valuable Timber Trees hereafter mentioned, casually omitted to be mentioned in the said Act," enacts, that the Trees called Poplar, Alder, Larch, Maple and Hornbeam, shall also be deemed and taken to be Timber Trees, immediately after 1st May 1773, and all and every person or persons who shall after 1st May 1773, wilfully cut or break down, bark, burn, pluck up, lop, top, crop, or otherwise deface, damage, spoil or destroy, or carry away any Poplar, Alder, Larch, Maple, and Hornbeam, or any part thereof, or the lops or tops thereof, without the consent of the Owner or Owners thereof first had and obtained (2), or of some person intrusted with the care of such Tree or Trees, such person or persons shall, if found guilty of any Offence or Offences, be convicted in like manner as persons are directed so

Poplar, alder, larch, maple, and hornbeam, declared to be timber trees.

(1) Mr. Burn, vol. 4. tit. Wood, s. 7., observes that the words "in like manner" here are inserted by mistake, for it could not be intended that a Justice of Peace should have power of transporting a man; but he observes that the word *Court*, which afterwards follows, and which, as it seems by other parts of the Act, means the Assises or Sessions, implies a legal Trial by Jury. Perhaps these words intended only to mean *by the like Evidence*.

(2) In this clause the words, "or in any of His Majesty's Forests or Chases without the consent of the Surveyor or Surveyors, or his or their Deputy or Deputies," which are to be found in s. 1. of 6 G. 3. c. 48. are omitted.

to be for Offences of the like kind concerning Trees deemed Timber Trees in the above in part recited Act; and upon such Conviction or Convictions shall be liable to all and every the Penalties, Forfeitures, and Punishments therein inflicted for any such like Offence or Offences. And all and every Justice and Justices of the Peace is and are hereby authorized, on complaint made to him or them of any Offence or Offences, to administer Oaths, and to proceed in like manner to conviction and Punishment of every Offender against this Act, as fully and effectually as if the said Trees hereby declared, deemed, and taken to be Timber Trees, had been expressly so deemed and declared to be in the said Act. [6 G. 3. c. 48.] And such Conviction and Convictions shall be certified by the Justice or Justices before whom the same shall be made, to the next Quarter Sessions of the Peace to be holden for the County wherein such Offence or Offences were committed, in the form of words, or to that effect, directed by the said Act; and all and every the Forfeitures for Offences against this Act, shall be paid and applied in the manner Forfeitures are directed to be paid in the said recited Act.

Persons plucking, &c. roots or plants out of fields, nurseries, &c. shall for a third offence be guilty of felony.

The third Section of 6 G. 3. c. 48. recites that many idle and disorderly persons have of late years made a practice of plucking or digging up, cutting, spoiling or destroying, and taking or carrying away, divers and sundry sorts of Roots, Shrubs, and Plants, (many of which are of great value) out of the Fields, Nurseries, Gardens and Garden Grounds, and other cultivated Lands of divers of his Majesty's subjects; and then enacts, that from and after 24th June 1766, all and every person who shall pluck up, or cut, spoil or destroy, or take or carry away any Root, Shrub, or Plant, Roots, Shrubs, or Plants, out of the Fields, Nurseries, Gardens or Garden Grounds, or other cultivated Lands of any person or persons whomsoever, without the consent of the Owner or Owners thereof first had and obtained, and shall be thereof convicted before one Justice of the Peace, &c. shall forfeit for the first Offence not exceeding forty shillings, &c., for the second Offence not exceeding £5, &c.; and if any person so before convicted shall a third time commit the like Offence, and shall be thereof convicted, such person so convicted shall for such third Offence be deemed guilty of Felony, and the Court before whom such person shall be tried shall and hereby hath authority to transport such person for the space of Seven Years to any of his Majesty's Plantations in America, in like manner as other Felons are directed to be transported by the Laws and Statutes of this Realm.

VII. *Larceny in Ships, on Wharfs, &c. and from Vessels wrecked, &c. or in Distress.*

The Statute 24 G. 2. c. 45. intituled "an Act for the more effectual preventing of Robberies and Thefts upon any navigable Rivers, Ports of Entry or Discharge, Wharfs and Keys adjacent," recites "that divers persons are encouraged to commit Robberies and Thefts upon navigable Rivers, Ports of Entry and Discharge, Wharfs and Keys adjacent, by the Privilege as the Law now is, of being admitted to the Benefit of their Clergy," and enacts, that all and every person and persons that shall at any time from and after 24 June 1751 feloniously steal any Goods, Wares, or Merchandize of the value of Forty Shillings in any Ship, Barge, Lighter, Boat, or other Vessel or Craft upon any navigable River, or in any Port of Entry or Discharge, or in any Creek belonging to any navigable River, Port of Entry or Discharge, within the Kingdom of Great Britain; or shall feloniously steal any Goods, Wares, or Merchandize of the value of Forty Shillings upon any Wharf or Key adjacent to any navigable River, Port of Entry or Discharge, or shall be present, aiding and assisting in the committing any of the Offences aforesaid, being thereof convicted or attainted, or being indicted thereof shall of malice stand mute, or will not directly answer to the Indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the Jury, shall be excluded from the Benefit of Clergy.

§ 1.
Persons stealing goods, &c. of the value of 40s. in any ship, &c. upon any navigable river, &c. or port of entry, or upon any wharf, &c. shall be guilty of felony, without clergy.

39 & 40 G. 3. c. 87.

If any person or persons shall make or be assisting in the making of any hole in the bottom, side, or any other part of any Ship or Vessel in Distress, or shall steal any Pump belonging to any Ship or Vessel so in Distress as aforesaid, or shall be aiding or abetting in the stealing of such Pump as aforesaid, such person or persons shall be and are hereby made guilty of Felony, without any benefit of his, her, or their Clergy. 12 Ann. st. 2. c. 18. s. 5.

§ 2.
Stealing any pump belonging to any ship in distress, felony, without clergy.

This Act is made perpetual by Statute 4 G. 1. c. 12.

The Act 12 Ann. st. 2. c. 18. or any thing therein contained, shall not be construed to extend to or any ways affect the ancient Jurisdiction and Usage of the Admiralty Court of the Cinque Ports, or the Officers thereto belonging, but the proper Officers of the said Admiralty Court shall be and are hereby authorized and empowered to put the said Act in Execution within the Jurisdiction of the said Cinque Ports, in as full and ample

A saving of the rights of the Admiralty Court of the Cinque Ports.

manner to all intents and purposes as any other person or persons are by the said Act appointed to do in any other parts of this Kingdom. 4 G. 1. c. 12. s. 2.

The Acts 12 Ann. st. 2. c. 18. and 4 G. 1. c. 12. shall in all things remain in force, save only where the same are altered or changed by this Act. 26 G. 2. c. 19. s. 16. See § 3. of this Division.

§ 3.

Whereas notwithstanding the good and salutary Laws now in being against plundering and destroying Vessels in Distress, and against taking away shipwrecked, lost, or stranded Goods, many wicked enormities have been committed, to the disgrace of the Nation and to the grievous damage of Merchants and Mariners of our own and other Countries: For remedy whereof, be it enacted, that if any person or persons shall plunder, steal, take away, or destroy any Goods or Merchandizes or other Effects, from or belonging to any Ship or Vessel of His Majesty's Subjects or others which shall be in Distress, or which shall be wrecked, lost, stranded, or cast on shore in any part of his Majesty's Dominions, (whether any Living Creature be on board such Vessel or not,) or any of the Furniture, Tackle, Apparel, Provision, or part of such Ship or Vessel, or shall beat or wound with intent to kill or destroy, or shall otherwise wilfully obstruct the escape of any person endeavouring to save his or her life from such Ship or Vessel, or the Wreck thereof; or if any person or persons shall put out any false Light or Lights with intent to bring any Ship or Vessel into danger; then such person or persons so offending shall be deemed guilty of Felony, and being lawfully convicted thereof, shall suffer Death as in cases of Felony without Benefit of Clergy. 26 G. 2. c. 19. s. 1.

Persons plundering shipwrecked goods, &c. ;

or any tackle, &c. belonging to such ship ;

or beating, &c. with intent to kill any person endeavouring to save his life from such wreck ;

or putting out false lights,

shall be guilty of felony, and suffer death.

Where goods stolen are of small value, &c. the prosecution may be for petit larceny.

In what cases the Clerk of the Peace shall prosecute.

Provided always, that when Goods or Effects of small Value shall be stranded, lost, or cast on shore, and shall be stolen without circumstances of cruelty, outrage, or violence, then and in such case, it shall be lawful for any person or persons to prosecute for such Offence by way of Indictment for Petit Larceny, and the Offenders being thereof lawfully convicted, shall suffer such Punishment as the Laws in cases of Petit Larceny do enjoin or require. s. 2.

If Oath shall be made before any Magistrate lawfully empowered to take the same, of any such Plunder or Theft, and the Examination in Writing whereupon taken shall be delivered to the Clerk of the Peace of the County, Riding, or Division

wherein such fact shall be committed, or to his Deputy, or if Oath shall be made before any such Magistrate of the breaking any Ship contrary to the aforesaid Act [12 Ann. st. 2. c. 18.] and the Examination in Writing thereupon taken shall be delivered to such Clerk of the Peace or his Deputy, then such Clerk of the Peace shall cause such Offender or Offenders in any of the said Cases to be forthwith prosecuted for the same, either in the County where the fact shall be committed, or in any County next adjoining, in which adjoining County any Indictment may be laid by any other Prosecutor; and if the fact be committed in Wales, then the Prosecutor shall or may be carried on in the next adjoining English County; and the necessary Charges of such Prosecutions by the Clerk of the Peace, shall be paid by the Treasurer of the County, Riding, or Division where the fact shall be committed, to such Amount as the Justices of the Peace in their General or Quarter Sessions shall order and ascertain the same; and if such Clerk of the Peace shall neglect or refuse to carry on such Prosecution in due manner, he shall forfeit One hundred Pounds for every such Offence to any person or persons who shall sue for the same, by Action of Debt, Bill, Plaint, or Information in any of his Majesty's Courts of Record at Westminster, in which Action no Essoign, Protection, Wager of Law, or more than One Impar lance shall be allowed. s. 8.

If any Sheriff or his Deputy, Justice of the Peace, Mayor, or other Magistrate, Coroner, Lord of a Manor, Commissioner of the Land Tax, Chief Constable or Petty Constable, or other Peace Officer, or any Custom-house or Excise Officer, or other person lawfully authorized, shall be assaulted, beaten, and wounded, for or on account of the Exercise of his or their Duty in or concerning the salvage or preservation of any ship or vessel in distress, or of any ship or vessel, goods or effects stranded, wrecked, or cast on shore, or lying under water, in any of his Majesty's Dominions, then any person or persons so assaulting, beating, or wounding, shall, upon Trial and Conviction, by Indictment at the Assizes or General Gaol Delivery, or at the General or Quarter Sessions for the County, Riding, or Division where such Offence shall be committed, be transported for seven years to some of his Majesty's Colonies in America, and shall be subject to such subsequent punishment in case of return before that time, as other persons under sentence of Transportation are by Law subjected unto. s. 11.

Persons assaulting and beating, &c. Sheriff, &c. in execution of this Act, &c. shall be transported for seven years.

VIII. *Larceny from Bleaching Crofts, Racks or Tenters, and of Wool, &c. left out to dry, and robbing Manufactories.***§ 1.**

Offenders stealing or cutting cloth, &c. from racks or tenters, ousted of clergy.

Whereas many evil-disposed persons have of late, more frequently than formerly, practised the Cutting of Cloth and other Woollen Manufactures, in the night-time, off from the Racks or Tenters where the said Cloth is put for the drying thereof, and feloniously steal and carry away the same; be it enacted, that no person nor persons who shall be indicted for feloniously cutting and taking, stealing or carrying away, of any Cloth or other Woollen Manufactures from the Rack or Tenter, in the night-time, and be thereupon found guilty by verdict of twelve men, or shall confess the same upon his or their arraignment, or will not answer directly to the same according to the Laws of this Realm, or shall stand wilfully or of malice and obstinately mute, or challenge peremptorily above the number of twenty, or shall be upon such Indictment outlawed, shall be admitted to the benefit of Clergy, but be utterly excluded thereof and suffer Death. 22 Car. 2. c. 5. s. 3.

Judge may reprieve and transport offenders for seven years; and offenders refusing to be transported, or returning therefrom, shall be put to execution upon the judgment given.

The Judges or Justices of the Court before whom such Offender shall be arraigned and condemned, at their discretion may grant a Reprieve for the staying of Execution of such Offender, and cause such Offender to be transported to any of his Majesty's Plantations beyond the Seas for seven years, to be accounted from the time of such Transportation, and during all that time there to be kept to labour; and if such Offender shall refuse to be transported, or after such Transportation shall return or come again into England, Wales, or Berwick-upon-Tweed, within the time aforesaid, that then the person so returning shall be put to Execution upon the Judgment so given against him. s. 4.

The Statute 51 G. 3. c. 41. intituled "an Act to repeal so much of an Act [18 G. 2. c. 27.] as takes away the benefit of Clergy from persons stealing Cloth in places therein mentioned, and for more effectually preventing such Felonies," repeals the first section of 18 G. 2. c. 27. and recites, that the said Act had not been found effectual for the prevention of the crimes mentioned in the said recited Statute, and that it might tend more effectually to prevent the aforesaid Crimes, if the same were punishable more severely than simple Larceny; and then (s. 2.) enacts, that from and after the passing of this Act, every person who shall feloniously steal any Linen, Fustian, Calico, Cotton Cloth, or Cotton worked, woven, or made of any Cotton

Persons stealing linen, fustian, calico, &c. or cotton or linen yarn, or incle, filletting, &c.

or Linen Yarn mixed, or any Thread, Linen, or Cotton Yarn, Linen or Cotton Tape, Inkle, Filletting, Laces, or any other Linen, Fustian, or Cotton Goods or Wares whatsoever, laid, placed, or exposed to be printed, whitened, bowked, bleached, or dried, in any whitening or bleaching Croft, Lands, Fields, or Grounds, Bowking House, Drying House, Printing House, or other Building, Ground or Place made use of by any Calico Printer, Whitster, Crofter, Bowker, or Bleacher, for printing, whitening, bowking, bleaching, or drying of the same, to the value of Ten Shillings; or who shall aid or assist, or wilfully or maliciously hire or procure any other person or persons to commit any such Offence; or who shall buy or receive any such Goods or Wares so stolen, knowing the same to be stolen as aforesaid, being lawfully convicted thereof, shall be liable to be transported beyond the Seas for Life, or for such term, not less than Seven Years, as the Judge before whom any such person shall be convicted shall adjudge; or shall be liable, in case the said Judge shall think fit, to be imprisoned and kept to hard labour in the Common Gaol, House of Correction, or Penitentiary House, for any Term not exceeding Seven Years.

exposed to be printed or bleached, &c. in any bleaching grounds or houses to the value of 10s.

or hiring, &c. others to commit any such offences; or buying or receiving such goods, &c. shall be liable to be transported for life, &c.

The Statute 15 G. 2. c. 27. recites that Clothiers and others concerned in the Woollen Manufacture are under a necessity of letting their Cloth and other Woollen Goods remain upon the Rack or Tenters, as also of suffering their Wool to lie exposed in the Night-time, in order the better to dry and prepare the same; whereby their said Goods are more frequently liable to be stolen by wicked and evil designing persons, who are encouraged in their wickedness by the difficulty of proving the identity of the Goods stolen; and then, "to secure the property of such Clothiers, and others concerned in the Woollen Manufacture, and to facilitate a discovery of such Goods so stolen," enacts that from and after the 29 Sept. 1742, in case any Cloth or Woollen Goods remaining upon the Rack or Tenters, or any Woollen Yarn or Wool left out to dry, shall be stolen or taken away in the Night-time, it shall and may be lawful to and for any one or more Justice or Justices of the Peace of the same County or Place, upon Complaint made to him or them, within Ten Days after such Cloth, Woollen Goods, Woollen Yarn, or Wool shall have been so stolen or taken away, by the Owner of such Cloth, Woollen Goods, Woollen Yarn, or Wool by Warrant under his or their Hands and Seals, to authorize and empower any Constable, Headborough, or other Peace Officer, in the Day-time, to enter into and search the Houses, Out-

§ 2.

Search may be made for woollen goods or wool stolen off tenters, or left to dry.

Such goods
found, to be
accounted for
before a Justice.

Offender to
forfeit treble
value.

Penalty to be
levied by distress
and sale ;

or the offender to
suffer three
months imprison-
ment.

houses, Yards, Gardens, or other Places belonging to the Houses of all and every person or persons whom the Owner of such Cloth, Woollen Goods, Woollen Yarn, or Wool, shall, upon his Oath, declare to such Justice or Justices of the Peace he suspects to have stolen, taken away, or received the same ; and in case such Constable or other Officer shall find or discover any Cloth, Woollen Goods, or Wool, which he shall, from the information of the person making such Oath, have reason to suspect to be so stolen, taken away, or received, he shall forthwith apprehend all and every person or persons in whose Custody or Possession such Cloth, Woollen Goods, or Wool shall be found, and carry him, her, or them before some Justice or Justices of the Peace of the same County, Riding, Division, Liberty, City, or Town Corporate ; and if the said person or persons so suspected, apprehended, and carried before the said Justice or Justices, shall not then and there give a satisfactory account how he, she, or they acquired the Property or Possession of such Cloth, Woollen Goods, Woollen Yarn, or Wool, or shall not, within some convenient time to be set by the said Justice or Justices, produce the Party or Parties of whom he, she, or they received the same, or some other credible Witness to depose upon oath such Property or Right to the Possession of the said Cloth, Woollen Goods, Woollen Yarn, or Wool, (which oath the said Justice or Justices is and are hereby empowered to administer), that the said person or persons so suspected, and not giving such satisfactory account, nor producing any such Witness upon oath to testify as aforesaid, shall be deemed and adjudged as convicted of the said Offence of stealing or taking away the said Cloth, Woollen Goods, Woollen Yarn, or Wool, and shall for the first Offence forfeit and pay to the Owner of such Cloth, Woollen Goods, Woollen Yarn, or Wool, treble the Value thereof ; and in default of Payment thereof, in the time appointed by such Justice or Justices for the Payment thereof, such Justice or Justices of the Peace shall issue forth his or their Warrant to levy the same by distress and sale of the Offender's goods, returning the overplus, if any be ; and in default of such distress shall commit the Offender or Offenders to the common Gaol of the County, City, or Place where the said Offender or Offenders shall be apprehended, there to remain for the space of Three Months without Bail or Mainprize, or until he, she, or they pay the same ; and if such person or persons shall again commit the said Offence, and be thereof convicted as before, then they, and every of them so offending the second

time, and being thereof so convicted, shall, over and above the Forfeiture of treble the Value of the Cloth, Woollen Goods, Woollen Yarn, or Wool so found, to be recovered and levied as aforesaid, be committed to the common Gaol as aforesaid, there to remain for the space of Six Months without Bail or Mainprize; and if such person or persons shall again commit the said Offence, and be thereof convicted as before, the Justice or Justices of the Peace, before whom such person or persons shall be so convicted as aforesaid, shall forthwith issue his or their Warrant to commit the said Offender or Offenders to the common Gaol as aforesaid, there to remain till the next Assizes or Great Session, where the said Offender or Offenders shall be tried for the said Offence; and in case such Offender or Offenders shall not, by producing the Party or Parties of whom he, she, or they acquired the Property or Possession of such Cloth, Woollen Goods, Woollen Yarn, or Wool, or otherwise prove, to the satisfaction of the Jury, that he, she, or they lawfully obtained the Property or Possession of the same, he, she, or they shall be adjudged to be guilty of Felony, and suffer Transportation for the space of Seven Years, and shall be liable to the same Punishment, and to the like methods of Prosecution, Trial, and Conviction, for returning from such Transportation, as other Felons transported are liable unto by virtue of the Laws now in force. s. 1.

Second offence, six months imprisonment, besides the penalty.

Transportation for seven years, for the third offence.

Provided always, that if any person or persons so suspected, and apprehended as aforesaid, shall find him, her, or themselves aggrieved by any Judgement or Determination which shall be given or made by any Justice or Justices of the Peace by virtue of this Act, it shall and may be lawful to and for such person or persons so aggrieved (unless he, she, or they have twice before been convicted of the same Offence) to appeal unto the Justices of the Peace in their General Quarter Sessions which shall happen to be held next after such Judgement or Determination given or made, who are hereby authorized and empowered to give such Relief, and make such Order therein, as to them shall seem meet; and such Judgement, Order, or Determination as shall be by them made upon the said Appeal, shall be final to all intents and purposes whatsoever. s. 2.

Appeal to the Quarter Sessions;

whose judgment shall be final.

Provided also, that this Act shall not extend to alter or repeal any Law now in force, for the Punishment of any person or persons stealing or receiving such Cloth, Woollen Goods, Woollen Yarn, or Wool, except in such cases where the proof is laid upon the Offender or Offenders as aforesaid; any thing herein contained to the contrary notwithstanding. s. 3.

To what cases this Act shall not extend.

§ 3.

Persons breaking into any house, &c. with intent to steal or destroy, &c. any linen manufacture, shall be guilty of Felony without clergy.

If any person or persons shall by Day or Night break into any House, Shop, Cellar, Vault, or other Place or Building, or by force enter into any House, Shop, Cellar, Vault, or other Place or Building, with intent to steal, cut, or destroy any Linen Yarn or any Linen Cloth, or any Manufacture of Linen Yarn belonging to any Manufactory, or the Looms, Tools, or Implements used therein; or shall wilfully or maliciously cut in pieces or destroy any such Goods, either when exposed to bleach or dry; every such Offender, being thereof lawfully convicted, shall be judged guilty of Felony, and shall suffer as in cases of Felony without Benefit of Clergy. 4 G. 3. c. 37. s. 16. By s. 38. the Act is declared to be a Public Act, and shall be judicially taken notice of as such by all Judges, Justices, &c.

§ 4.

Persons breaking into the British plate glass manufactory, with intent, or stealing or destroying glass or tools, &c. shall be guilty of felony.

If any person or persons shall by Day or Night break into any House, Shop, Cellar, Vault, or other Place or Building, or by force enter into any House, Shop, Cellar, Vault, or other Place or Building, of the British Plate Glass Manufactory, or wherein the same shall be then carrying on, with intent to steal, cut, break, or otherwise destroy any Glass or Plate Glass, wrought or unwrought, or any Materials, Tools, or Implements used in, for, or about the making thereof, or any Goods and Wares belonging to the said Manufactory, or shall steal or wilfully or maliciously cut, break, or otherwise destroy any such Glass Materials, Tools, or Implements, every Offender being thereof lawfully convicted, shall be judged guilty of Felony, and shall be transported to one of his Majesty's Colonies or Plantations in America, for a Term not exceeding Seven Years. 18 G. 3. c. 38. s. 29.

Continued by
38 G. 3. c. 17.
s. 24. Loc. &
Per. and altered.

IX. *Larceny in Northern Counties by taking Black Mail.*

(And see Titles KIDNAPPING, NORTHERN COUNTIES.)

Persons taking or giving black-mail shall be guilty of felony without clergy.

By the Statute 43 Eliz. c. 13. reciting, that in the Counties of Cumberland, Northumberland, Westmorland, and the Bishoprick of Duresme, there had been many Incursions, Robberies, and burning and spoiling of Towns, Villages, and Houses within the said Counties, so that divers Subjects there had been forced to pay a certain Rate of Money, Corn, Cattle, or other Consideration, commonly called Black Mail, to divers persons inhabiting upon or near the borders, in alliance with great Robbers and Spoilers in those parts, thereby to be freed and protected from such as stole in those parts, enacts (s. 2.), that whosoever shall take, receive, or carry to the use of himself, or wittingly to the use of any other, any Money, Corn, Cattle, or other Consideration, commonly called Black Mail, for the protecting or

defending of him or them, or his or their Lands, Tenements, Goods or Chattels from such Thefts, Spoils, and Robberies as is aforesaid; or whoever shall give any such Money, Corn, Cattle, or other Consideration called Black Mail for such protection as is aforesaid, and shall be thereof indicted and lawfully convicted, or shall stand mute, or shall challenge peremptorily above the number of Twenty before the Justices of Assise, Justices of Gaol Delivery, Justices of Oyer and Terminer, or Justices of Peace, within any of the said Counties, at some of their General Sessions within some of the said Counties to be holden, shall be reputed, adjudged, and taken to be as Felons, and shall suffer pains of Death without Benefit of Clergy, and shall forfeit as in case of Felony. 43 Eliz. c. 13. s. 2.

Persons outlawed upon this Statute shall be proclaimed by the Sheriff at certain Places named in the Act, and persons conferring with or relieving Outlaws shall be imprisoned for Six Months, and shall, before being enlarged, find Sureties for One Year. s. 4, 5. See also 13, 14 Car. 2. c. 22. made perpetual by 31 G. 2. c. 42. and further 6 G. 2. c. 37. s. 9, 10. containing Regulations in aid of this Act.

X. Larceny from the Person.

The Statute 48 G. 3. c. 129. intituled "An Act to repeal so much of an Act passed in the Eighth Year of the Reign of Queen Elizabeth [8 Eliz. c. 4.] as takes away the Benefit of Clergy from persons stealing privily from the Person of another, and for more effectually preventing the Crime of Larceny from the Person," recites, that by the said Act it is amongst other things enacted, that no person or persons who should after the passing of that Act happen to be indicted or appealed for felonious taking of any Money, Goods, or Chattels from the Person of any other, privily without his knowledge, in any place whatsoever, and thereupon found guilty by Verdict of Twelve Men, or should confess the same upon his or their Arraignment, or would not answer directly to the same, according to the Laws of this Realm, or should stand wilfully or of malice or obstinately mute, or challenge peremptorily above the number of Twenty, or should be upon such Indictment or Appeal outlawed, should from thenceforth be admitted to have the Benefit of his or their Clergy, but utterly be excluded thereof, and should suffer Death in such manner and form as they should if they were no Clerks: And further reciting, that the "said Act had not been found effectual for the prevention of

A recital of part
of 8 Eliz. c. 4.

And so much thereof as takes away the benefit of Clergy from persons stealing privily from the person of another, repealed.

Persons feloniously stealing from the person of another, whether privily or not, &c. liable to be transported, &c.

the Crimes therein mentioned, and that it was therefore expedient that so much of the said Act as is before recited should be repealed;" and that "it might tend more effectually to prevent the Crime of Larceny from the Person if every such Offence, not being Robbery, was rendered punishable more severely than simple Larceny;" and then enacts, "that so much of the said Act as is herein-before recited shall, from and after the passing of this Act, be and the same is hereby repealed."

From and after the passing of this Act, every person who shall at any time or in any place whatever feloniously steal, take, and carry away any Money, Goods, or Chattels from the Person of any other, whether privily without his knowledge or not, but without such Force or putting in Fear as is sufficient to constitute the Crime of Robbery, or who shall be present, aiding, and abetting therein, shall be liable to be transported beyond the Seas for Life, or for such term, not less than Seven Years, as the Judge or Court before whom any such person shall be convicted shall adjudge, or shall be liable, in case the said Judge or Court shall think fit, to be imprisoned only, or to be imprisoned and kept to Hard Labour in the Common Gaol, House of Correction, or Penitentiary House, for any Term not exceeding Three Years. 42 G. 3. c. 129. s. 2.

XI. Maliciously by Force or Fraud taking away or decoying any Child under Ten Years of Age, with intent to deprive its Parent, &c. of the Possession of such Child, or with intent to steal the Apparel, &c. upon such Child.

Persons maliciously by force or fraud taking away or decoying any child under ten years of age, or harbouring such child, declared guilty of felony.

The Statute 54 G. 3. c. 101. intituled "an Act for the more effectual prevention of Child Stealing," recites that "the practice of carrying away young Children by forcible or fraudulent means, from their Parents or other Persons having the Care and Charge or Custody of them, commonly called Child Stealing, has of late much prevailed and increased: and whereas no adequate Punishment is as yet provided by Law in England or Ireland for so heinous an Offence;" and then enacts, that if any person or persons, from and after the passing of this Act, shall maliciously, either by Force or Fraud, lead, take, or carry away, or decoy or entice away, any Child under the Age of Ten Years, with intent to deprive its Parent or Parents, or any other Person having the lawful Care or Charge of such Child, of the Possession of such Child, by concealing and detaining such Child from such Parent or Parents, or other Person or Persons having the lawful Care or Charge of it; or with intent to steal any article of Apparel or Ornament, or other thing of Value or

Use, upon or about the person of such Child, to whomsoever such Article may belong ; or shall receive and harbour with any such intent as aforesaid any such Child, knowing the same to have been so by Force or Fraud led, taken, or carried, or decoyed or enticed away as aforesaid ; every such person or persons, and his, her, and their Counsellors, Procurors, Aiders, and Abettors, shall be deemed guilty of Felony, and shall be subject and liable to all such Pains, Penalties, Punishments, and Forfeitures, as by the Laws now in force may be inflicted upon, or are incurred by persons convicted of Grand Larceny.

Provided that nothing in this Act shall extend, or be construed to extend, to any Person who shall have claimed to be the Father of an illegitimate Child, or to have any Right or Title in Law to the Possession of such Child, on account of his getting Possession of such Child, or taking such Child out of the Possession of the Mother thereof, or other person or persons having the lawful Charge thereof. s. 2.

Not to affect fathers of illegitimate children.

Provided also, that this Act shall not extend, or be construed to extend, to that part of *Great Britain* called *Scotland*. s. 3.

Not to extend to Scotland.

XII. Larceny of Records, and Choses in Action.

And moreover it is ordained, that if any Record, or Parcel of the same Writ, Return, Panel, Process, or Warrant of Attorney in the King's Courts of Chancery, Exchequer, the one Bench or the other, or in his Treasury, be willingly stolen, taken away, withdrawn, or avoided by any Clerk, or by other person, because whereof any Judgment shall be reversed, that such Stealer, Taker away, Withdrawer, or Avoider, their Procurators, Counsellors, and Abettors, thereof indicted, and by Process thereupon made thereof duly convict by their own Confession or by Inquest to be taken of lawful men, whereof the one half shall be of the men of any Court of the same Courts, and the other half of other, shall be judged for Felons, and shall incur the Pain of Felony ; and that the Judges of the said Courts of the one Bench or of the other, have power to hear and determine such Defaults before them, and thereof to make due Punishment as afore is said. 8 H. 6. c. 12. s. 3.

§ 1.
Avoiding or taking away, &c. records, shall be felony.

If any person or persons, after 29th June 1729, shall steal or take by Robbery, any Exchequer Orders or Tallies, or other Orders, intitling any other person or persons to any Annuity or share in any Parliamentary Fund, or any Exchequer Bills, Bank Notes, South Sea Bonds, East India Bonds, Dividend War-

§ 2.
To steal choses in action shall be felony of the same nature as stealing goods of the like value as

the monies
secured by such
choses in action.

rants of the Bank, South Sea Company, East India Company, or any other Company, Society or Corporation, Bills of Exchange, Navy Bills or Debentures, Goldsmiths Notes for payment of Money, or other Bonds or Warrants, Bills or Promissory Notes for the Payment of any money, being the Property of any other person or persons, or of any Corporation, notwithstanding any of the said particulars are termed in Law a *Chose in Action*, it shall be deemed and construed to be Felony of the same nature and in the same degree, and with or without the benefit of Clergy, in the same manner as it would have been if the Offender had stolen or taken by Robbery any other goods of like value with the Money due on such Orders, Tallies, Bills, Bonds, Warrants, Debentures, or Notes, or secured thereby, and remaining unsatisfied, and such Offenders shall suffer such Punishment as he or she should or might have done if he or she had stolen other goods of the like value with the Monies due on such Orders, Tallies, Bonds, Bills, Warrants, Debentures or Notes respectively, or secured thereby, and remaining unsatisfied; any Law to the contrary thereof in anywise used notwithstanding. 2 G. 2. c. 25. s. 3.

This Act is made perpetual by Stat. 9 G. 2. c. 18. s. 1.

XIII. Robbing the Mail, and Larceny of Letters and Packets sent by the Post.

(And see Division XX. iv.)

Persons robbing
the mail shall
suffer death.

By the Statute 5 G. 3. c. 25. s. 18. it is enacted, that if any person or persons whatsoever shall rob any of his Majesty's Mails of any Letter or Letters, Packet or Packets, Bag or Mail of Letters, although such Robbery shall not appear or be proved to be a taking from the Person or upon the King's Highway, or to be a Robbery committed in any Dwelling House or any Coach-house, Stable, Barn, or any Outhouse belonging to a Dwelling House, and although it should not appear that any person or persons were put in Fear by such Robbery, yet such Offender or Offenders being thereof convicted, shall nevertheless respectively be deemed guilty of Felony, and shall suffer Death as a Felon.

Offenders robbing the mail, or stealing out of bags, post-houses, &c. any letter, ousted of clergy.

And the Statute 7 G. 3. c. 50. s. 2. enacts, that if any person or persons whatsoever shall rob any Mail or Mails in which Letters are sent or conveyed by the Post of any Letter or Letters, Packet or Packets, Bag or Mail of Letters; or shall steal and take from and out of any such Mail or Mails, or from or out of any Bag or Bags

of Letters sent or conveyed by the Post, or from or out of any Post Office, or House or Place for the Receipt or Delivery of Letters or Packets, sent or to be sent by the Post, any Letter or Letters, Packet or Packets, although such robbery, stealing, or taking shall not appear or be proved to be a taking from the Person, or upon the King's Highway, or to be a Robbery committed in any Dwelling House, or any Coach House, Stable, Barn, or any Outhouse belonging to a Dwelling House, and although it should not appear that any person or persons were put in Fear by such robbery, stealing, or taking, yet such Offender or Offenders, being thereof convicted, shall nevertheless respectively be deemed guilty of Felony, and shall suffer Death as a Felon without Benefit of Clergy.

The Statute 42 G. 3. c. 81. s. 3. recites the above Section of 7 G. 3. c. 50. and that "by reason of the difficulty and frequent impossibility of discovering and proving the particular County, Stewartry, or place, within which the said last-mentioned Offences have been committed, divers persons have escaped the Pains and Punishments by the said in part recited Act intended to be inflicted on such Offenders, and it is reasonable to make further provisions for the Trial and due Punishment of such Offenders;" and then enacts, that all and every the said last-mentioned Felonies and Offences which shall be committed from and after the passing of this Act, shall and may be alledged and laid, prosecuted, inquired of, tried, and determined, if committed in that part of Great Britain called England, either in the County wherein such Felony or Offence shall be committed, or wherein such Offender or Offenders shall be apprehended; and if committed in that part of Great Britain called Scotland, either in the Justiciary Court at Edinburgh, or in the Court of the Circuit of that part of the United Kingdom within which Circuit such Felony or Offence shall be committed, or such Offender or Offenders shall be apprehended. But all the above Statutes are now repealed by the latter and more general provisions of the Statute 52 G. 3. c. 143. (which see at length under Division XX. iv. of this Title) which declares and enacts (s. 3.) that if any person shall, after the passing of this Act, steal and take from any Carriage, or from the possession of any person employed to convey Letters sent by the Post of Great Britain, or from or out of any Post Office, or House or Place for the Receipt or Delivery of Letters or Packets, or Bags or Mails of Letters, sent or to be sent by such Post, any Letter or Packet, or Bag

Where offenders shall be tried.

Offenders stealing letters sent by the post from any carriage, posthouse, or bag of letters, etc. ousted of clergy.

or Mail of Letters, sent or to be sent by such Post, or shall steal and take any Letter or Packet out of any such Bag or Mail, every person so offending, and being thereof convicted, shall be adjudged guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy; and such Offences shall and may be inquired of, heard, tried, and determined, either in the County where the Offence shall be committed, or where the party shall or may be apprehended.

XIV. Embezzlement and Larceny of Public Stores.

§ 1.
Embezzling any
of the Queen's
armour, ord-
nance, munition,
shot, powder, &c.
or victual, to the
value of 20s.
shall be felony.

3 Inst. 79.

If any person or persons having at any time hereafter the charge or custody of any Armour, Ordnance, Munition, Shot, Powder, or Habiliments of War of the Queen's Majesty, her Heirs or Successors, or of any Victuals provided for the victualling of any Soldiers, Gunners, Mariners, or Pioneers, shall for any lucre or gain, or wittingly, advisedly, and of purpose to hinder or impeach her Majesty's Service, imbezil, purloin, or convey away any of the said Armour, Ordnance, Munition, Shot or Powder, Habiliments of War, or Victuals, to the value of Twenty Shillings at one or several times, that then such Offence shall be judged Felony, and the Offender or Offenders therein to be tried, proceeded on, and suffer as in case of Felony.
31 Eliz. c. 4. s. 1.

Offenders shall
be prosecuted
within one year.

None shall be impeached for any Offence against this Statute, unless the same Impeachment be prosecuted or began within the Year next after the Offence done; and that this Act, nor any thing therein contained, nor any Attainder or Attainders of any person or persons for any Offence made Felony by this Act, shall in anywise extend to, or be adjudged, interpreted, or expounded to make the Offender or Offenders to forfeit or lose any Lands, Tenements or Hereditaments, any longer than only during his or their life or lives; or to make any Corruption of Blood to any the Heir or Heirs of any such Offender or Offenders; or to make the Wife of any such Offender to lose or forfeit her Dower or title of Dower, of, in, or to any Lands, Tenements, or Hereditaments, or her Action or Interest to the same; and that such person and persons as shall be impeached for any Offence made Felony by this Statute, shall by virtue of this Act be received and admitted to make any lawful proof that he can by lawful Witness or otherwise, for his Discharge and Defence in that behalf. s. 2.

No corruption of
blood, forfeiture
of lands, or loss
of dower.

3 Inst. 47.

Defendant may
bring proof for
his defence.

§ 2.
Clergy taken
away from
offenders against

The Statute 22 Car. 2. c. 5. s. 2. reciting the first clause of 31 Eliz. c. 4., and that the Offenders were emboldened to commit such offences by being admitted to Clergy, enacts (s. 3.) that no

person or persons who shall be indicted for any Offence committed against the said recited Act of 31. Eliz. or [which extends it to any person who] shall feloniously steal or imbezil any of his Majesty's Sails, Cordage, or any other his Majesty's Naval Stores, to the value of Twenty Shillings, and be thereupon found guilty by Verdict of Twelve Men, or shall confess the same upon his or their Arraignment, or will not answer directly to the same according to the Laws of this Realm, or shall stand wilfully or of malice and obstinately mute, or challenge peremptorily above the number of Twenty, or shall be upon such Indictment outlawed, shall be admitted to have the benefit of his or their Clergy, but be utterly excluded thereof, and shall suffer Death.

31 Eliz. c. 4., or stealing, &c. King's cordage, sails, or naval stores, to the amount of 20s.

It shall and may be lawful for the Judges or Justices of the Court before whom such Offender shall be arraigned and condemned at their discretion to grant a Reprieve for staying of Execution of such Offender, and to cause such Offender to be transported to any of his Majesty's Plantations beyond the Seas, there to remain for the Space of Seven Years, to be accounted from the time of such Transportation, and during all that time there to be kept to labour; and if such Offender shall refuse to be so transported, or after such Transportation shall return or come again into England, Wales, or Town of Berwick-upon-Tweed, within the time aforesaid, that then the person so returning shall be put to Execution upon the Judgment so given and pronounced against him. s. 4.

Judge may reprieve such offenders, and order them to be transported for seven years.

Offenders refusing or returning shall be put to execution on their judgments.

Whereas, notwithstanding the Laws made for preventing the Stealing and Embezzlement of his Majesty's Stores of War and Naval Stores, those Frauds, Thefts and Embezzlements are frequently practised, and the convicting of such Offenders is rendered difficult and impracticable, by reason it rarely happens that direct proof can be made of such Offender's immediate taking, embezzling or carrying away any of his Majesty's said Stores of War and Naval Stores out of or from his Majesty's Storehouses, Docks, Yards, Ships, Ordnance, or other Places for keeping and preserving the same, but only that such Goods are marked with the King's Mark, and found in the Custody and Possession of the said Person accused for embezzling or stealing the same; for preventing such Embezzlements for the future, and for the more effectual execution of the Laws already in force against such Embezzlements and Thefts, be it enacted, that after the 24th day of June 1698, it shall not be lawful to or for any person or persons whatsoever, other than persons authorized by contracting with his Majesty's principal Officers or Commissioners of the Navy, Ordnance, or Victualling Office, for his Majesty's use, to make any

§ 3.

No warlike, naval, or ordnance stores shall be made with the King's marks, except by authorized persons.

Stores of War, or Naval Stores whatsoever, with the Marks usually used to and marked upon his Majesty's said Warlike and Naval or Ordnance Stores; that is to say, any Cordage of three Inches and upwards, wrought with a white thread laid the contrary way, or any smaller cordage, to wit, from three inches downwards with a twine in lieu of a white thread laid to the contrary way as aforesaid (1), or any canvass, wrought or unwrought, with a blue streak in the middle, or any other Stores with the Broad Arrow by stamp, brand, or otherwise (2); upon pain that every such person or persons who shall make such Goods so marked as aforesaid, not being a Contractor with his Majesty's principal Officers or Commissioners of the Navy, Ordnance, or Victuallers for his Majesty's use, or employed by such Contractor for that purpose as aforesaid, shall for every such Offence forfeit such Goods, and the sum of Two hundred Pounds, together with Costs of Suit, One Moiety to his Majesty and the other Moiety to the Informer, to be recovered by Action of Debt, Bill, Plaint, or Information, in any of his Majesty's Courts of Record at Westminster, wherein no Essoign, Privilege, Protection, Wager of Law, Injunction, or Order of Restraint, nor more than One Imparllance shall be allowed. 9, 10 W. 3. c. 41. s. 1.

on penalty of
£200 and costs
of suit.

Penalty on persons concealing, or in whose custody such marked stores are found,

£200; and in default of payment, the offender shall be imprisoned.

Such person or persons in whose custody, possession, or keeping such Goods or Stores, marked as aforesaid shall be found, not being employed as aforesaid, and such person or persons who shall conceal such Goods or Stores marked as aforesaid, being indicted and convicted of such Concealment, or of the having such Goods found in his custody, possession, or keeping, shall forfeit such Goods and the Sum of Two hundred Pounds, together with the Costs of Prosecution, One Moiety to his Majesty and the other Moiety to the Informer, to be recovered as aforesaid; and shall also suffer Imprisonment until payment and performance of the said Forfeiture; unless such person shall, upon his Trial, produce a Certificate under the hand of Three or more of his Majesty's principal Officers or Commissioners of the Navy, Ordnance, or Victuallers, expressing the numbers, quantities, or weights of such Goods, as he or she shall then be indicted for, and the occasion and reason of such Goods coming to his or her hands or possession. s. 2.

Penalty on persons having in possession or concealing marked timber, &c.

By 9 G. 1. c. 8. s. 3. reciting s. 2. of the Statute of 9, 10 W. 3. c. 41, it is enacted, that if any person or persons shall,

(1) See post. Statute 54 G. 3. c. 60, which alters the marks in cordage.

(2) See the punishment for destroying, &c. these marks under the Statute 39, 40 G. 3. c. 89. s. 4. post, p. 461.

after 25 March 1723, be lawfully convicted of having in his, her, or their custody, any Timber, Thick Stuff, or Plank, marked with the Broad Arrow by stamp, brand, or otherwise, or of concealing any Timber, Thick Stuff, or Plank so marked, every such person so offending shall suffer, forfeit, and pay as for having, keeping, or concealing any other Warlike, Naval, or Ordnance Stores contrary to the said Act.

Provided also, that the said principal Officers or Commissioners of the Navy, Ordnance, or Victualling Office, for the time being, may sell and dispose of any of the Stores aforesaid, so marked as aforesaid, as they did or might have done before the making of this Act; and that such person or persons as heretofore have, or shall hereafter buy any such Stores, or other Stores so marked as aforesaid, of the said principal Officers or Commanders*, or by their Order, may keep and enjoy the same without incurring the Penalty of this Act, or any Law to the contrary whatsoever, upon producing a certificate or certificates, under the hand and seal of Three or more of the said Principal Officers or Commissioners of the Navy, Ordnance, or Victualling Office, that they bought such Goods from them the said Principal Officers or Commissioners, or from such person or persons as did buy the said Stores from the said Principal Officers or Commissioners, at any time before such Stores were found in their custody, in which certificate or certificates the quantities of such Stores shall be expressed, and the time when and where bought of the said Commissioners, who, or any Three or more of them, for the time being, are hereby empowered and directed from time to time to give to such person or persons who shall desire the same, and have bought and shall hereafter buy any of the aforesaid Stores, within Thirty Days after the sale and delivery of the said Stores so sold or to be sold as aforesaid. 9, 10 W. 3. c. 41. s. 4.

Commissioners of the navy, &c. may sell such marked stores as heretofore.

* Query, Commissioners.

Giving the purchaser a certificate thereof.

For the better encouragement of such persons who shall make seizures or discoveries of any such Stores embezzled or stolen, be it enacted, that in case any person or persons shall be sued or prosecuted for or by reason of their discovering or seizing any such Stores or Goods so marked as aforesaid, that in every such case such person so sued or prosecuted may plead the General Issue, and give this Act and the Special Matter in evidence; and in case, that upon the Trial of such Issue, the Defendants so sued shall make proof that such Goods or Stores so discovered or seized by them, were so marked as aforesaid, and that the Plaintiffs or Prosecutors in such Suit or Prosecution shall not, at such Trial, make good proof that they were so employed, or had such certificate as aforesaid, before such disco-

Defendant in actions for seizing such stores may plead the general issue.

very and seizure made, and that they did shew the same unto such Defendants before such Suit or Prosecution commenced or brought, such Defendant shall be acquitted and found not guilty thereupon; unless such Defendants, upon sight of such certificate, did not deliver back unto such Plaintiff or Prosecutors, at their request, or otherwise, all such Goods and Stores so seized, in as good plight and condition as they were at the time of such certificate shewn; and in case any such Defendants shall be so, or otherwise, acquitted on such Trial, and that such Plaintiffs or Prosecutors shall discontinue such their Suit or Prosecution, or be nonsuited therein, such Defendants shall recover treble Costs. 9, 10 W. 3. c. 41. s. 5.

And plaintiffs being nonsuit or discontinuing, shall pay treble costs.

Such stores may be lent to ships in distress or otherwise.

Provided that nothing in this Act contained shall be construed to hinder any of the principal Officers and Commissioners of the Navy, or any Chief Commander of any of his Majesty's Ships at Sea, to lend any of his Majesty's Stores to any Merchant Ship or Vessel in distress, or otherwise, as might lawfully be done before the making of this Act, in case such Goods so lent be restored with all possible conveniency; and provided such person or persons so borrowing the said Stores, from time to time, have such Certificate as aforesaid, which the said principal Officers and Commissioners of the Navy, or Commander in Chief, are hereby required to give to the Party or Parties that shall borrow the same. s. 8.

The Act of 9, 10 W. 3. was made a public Act by Statute 1 G. 1. st. 2. c. 25. s. 14.

Penalty for having marked naval stores in possession may be mitigated, or offenders may be corporally punished.

The Statute 9 G. 1. c. 8. s. 4. (referring to the Offences described in s. 2. of 9, 10 W. 3. c. 41. and the additional Provision made by s. 3. of the said Act 9 G. 1. c. 8.) provides and enacts that it shall and may be lawful to and for any Judge, Justice, or Justices, before whom any Offender or Offenders shall be convicted of any of the Crimes or Offences before recited, enacted, or mentioned in this Act, to mitigate the Penalty for the same, as he or they shall see cause, and to commit the Offender or Offenders so convicted to the common Gaol of the County or Place where the Offence shall be committed, there to remain, without Bail or Mainprize, until payment be made of the Penalty and Forfeiture imposed by this or the said former Act, or mitigated as aforesaid, or to punish such Offender or Offenders corporally, by causing him, her, or them to be publicly whipped, or committed to some public Workhouse, there to be kept to hard labour for the space of Six Months or a less time, as to such Judge, Justice, or Justices, in his or their discretion shall seem

meet; any thing in the said recited Act, or in any other Act, to the contrary notwithstanding.

Where any dispute shall arise between the persons upon whose informations or oaths any person or persons offending in the premisses, or against the said former Act, shall be prosecuted and convicted, touching any right or title to any of the Forfeitures or Penalties before mentioned, or any Part thereof, the Judge, Justice, or Justices before whom such Offender or Offenders shall be convicted, shall examine the matter and finally determine the same. 9 G. 1. c. 8. s. 5.

Disputes respecting in-
former's right to
penalties shall be
settled by the
Judge, &c.

The Statute 17 G. 2. c. 40. recites the Statutes 9, 10 W. 3. c. 41. and 9 G. 1. c. 8. and that "some doubts have arisen touching the method of trial and punishment of Offenders against the said Acts, whether, as the said Acts are worded, such Offender or Offenders may be indicted and tried for the Crimes and Offences in the said Acts mentioned, and whether any Judge, Justice, or Justices of Assise, or Justices of Peace at the Sessions, may hear, try, and determine the same, and, on conviction, set such Fine or mitigate the same, and the Forfeitures and Penalties inflicted by the said Acts on such Offender or Offenders, as the nature of the Offences may deserve; or whether such Offenders as aforesaid, in order for recovering the said Forfeitures and Penalties inflicted by the said Act, can only be proceeded against by Action of Debt, Bill, Plaint, or Information in some of his Majesty's Courts of Record at Westminster; by reason of which doubts it has so happened that Offenders against the said recited Acts, having been indicted for the same, have escaped unpunished, to the great encouragement of such Offenders and others to commit the like Crimes and Offences for the future;" and then for the remedying whereof, and for the explaining the Acts abovementioned, declares and enacts, that it shall and may be lawful to and for any Judge, Justice, or Justices at the Assises, or Justices of the Peace at the General Quarter Sessions to be holden for any County, City, Borough, or Town Corporate, to hear and determine by indictment or otherwise all or any the Crimes and Offences mentioned in the said recited Acts; and that the said Judge, Justice, or Justices of Assise, or Justices of Peace as aforesaid, before whom such Offender or Offenders shall be indicted, or tried and convicted, of all or any the Crimes or Offences in the said recited Acts mentioned, may impose any Fine, not exceeding the Sum of Two hundred Pounds, on such Offender or Offenders, one Moiety to be paid to his Majesty and the other Moiety to the

Justices of Assise
and Justices of
the Peace in
Quarter Sessions
may by indictment
try offences
mentioned in
9, 10 W. 3.
c. 41. & 9 G. 1.
c. 8.

And mitigate
penalties.

Informer; and may mitigate the said Penalty and Forfeitures inflicted by the said recited Acts, or either of them, and to commit the Offender or Offenders so convicted and fined to the common Gaol of the County or Place where the Offence shall be committed, there to remain, without Bail or Mainprize, until payment be made of the Penalty and Forfeitures imposed by this or the said former Acts, or mitigated as aforesaid, or in lieu thereof to punish such Offender or Offenders in the premisses corporally, by causing him, her, or them to be publicly whipped and committed to some House of Correction or public Workhouse, there to be kept to hard labour for the space of Three Months or less time, as to such Judge, Justice, or Justices of Assise, or Justices of the Peace, shall in his or their discretion seem meet; any thing in the said recited Acts, or in any other Act to the contrary notwithstanding. s. 10.

By Statute 9 G. 3. c. 30. s. 5. for the more speedy and effectual bringing to justice persons who shall be guilty of stealing or embezzling his Majesty's Naval Stores, the Treasurer, Comptroller, Surveyor, Clerk of the Acts, or any Commissioner of the Navy, for the time being, are empowered in all Places whatsoever to do, perform, exercise, and execute the office and duty of a Justice of the Peace, in causing such Offenders and Persons to be apprehended, committed, and prosecuted for the same; and all Constables, Keepers of Gaols, and other Officers, shall execute and obey all warrants made by the persons aforesaid.

§ 4.

The Statute 39, 40 G. 3. c. 89. intituled "an act for the better preventing the Embezzlement of his Majesty's Naval, Ordnance, and Victualling Stores," recites, that by the Statute 22 Car. 2. c. 5. it is amongst other things enacted, that no person or persons who shall feloniously steal or embezzle any of his Majesty's Sails, Cordage, or any other his Majesty's Naval Stores, to the value of twenty shillings, and be thereupon found guilty in manner therein mentioned, shall be admitted to have the benefit of his or their Clergy, but utterly be excluded thereof, and shall suffer Death in such manner and form as they should if they were no clerks; and also recites that by Statute 9 & 10 W. 3. c. 41. a penalty of two hundred pounds, with costs of prosecution, is inflicted upon persons in whose custody, possession, or keeping shall be found, or who shall conceal, contrary to the said Act, any Warlike, Naval, or Ordnance Stores, marked in such manner as therein mentioned; and that by Statute 9 G. 1. c. 8. it is enacted [by section 3.], that if any person or persons shall be lawfully convicted of having in his, her, or their custody, or of concealing, any Timber, Thick Stuff, or

Plank, marked with the Broad Arrow, by stamp, brand, or otherwise, every such person shall suffer, forfeit, and pay as for having, keeping, or concealing any other Warlike, Naval, or Ordnance Stores, contrary to the said Act of the ninth and tenth years of King William the third; and that by the said last-recited Act [s. 4.] power is given to the Judge, Justice or Justices before whom any offender shall be convicted of any of the crimes or offences before recited, to mitigate the penalty for the same as he or they shall see cause, or to punish such offender corporally, by causing him, her, or them to be publicly whipt or committed to some public workhouse, there to be kept to hard labour for the space of Six Months, or a less time, as to such Judge, Justice or Justices in his or their discretion shall seem meet: And that by Statute 17 G. 2. c. 40. it is amongst other things declared and enacted, that it shall and may be lawful to and for any Judge, Justice or Justices at the Assises, or Justices of the Peace at the General Quarter Sessions, to be holden as herein mentioned, to hear, try, and determine, by Indictment or otherwise, all or any the crimes or offences mentioned in the therein and herein recited Acts of the ninth and tenth years of the reign of King William the Third, and the ninth year of the reign of King George the First; and that the said Judge, Justice or Justices of Assise, or Justices of the Peace, may impose any fine not exceeding the sum of two hundred pounds on such offender or offenders, and may mitigate the said penalty and forfeitures inflicted by the said recited Acts or either of them, or in lieu thereof punish such offender or offenders in the premises corporally, by causing him, her, or them to be publicly whipt and committed to some House of Correction, or public workhouse, there to be kept to hard labour for the space of Three Months, or less time, as to such Judge, Justice, or Justices of Assise, or Justices of the Peace, shall in his or their discretion seem meet: And further reciting, that “notwithstanding the penalties and punishments inflicted by the said recited Acts, the Stealers, Embezzlers, and Receivers of his Majesty’s Warlike and Naval Ordnance and Victualling Stores have greatly increased, so that it is become necessary to make some further and more effectual provision for preventing their wicked practices in future;” and then enacts, that from and after the passing of this Act, every person or persons, (such person or persons not being a contractor or contractors, or employed as

Every person (not being a contractor, &c.) who shall sell, &c. receive or conceal any stores of

war, naval, ordnance, or victualling stores, shall be transported for 14 years, unless he produces on the trial a certificate from the navy board, &c.

reign of King William the Third is mentioned), who shall willingly or knowingly sell or deliver, or cause or procure to be sold or delivered, to any person or persons whomsoever, or who shall willingly or knowingly receive or have in his, her, or their custody, possession, or keeping, any Stores of War, or Naval, Ordnance, or Victualling Stores, or any goods whatsoever marked as in the said recited Acts are expressed, or any canvass marked either with a blue streak in the middle, or with a blue streak in a serpentine form, or any Bewper, otherwise called Buntin, wrought with one or more streaks of raised tape, (the said Stores of War, or Naval, Ordnance, or Victualling Stores, or Goods above mentioned, or any of them, being in a raw or unconverted state, or being new or not more than one-third worn), and such person or persons who shall conceal such Stores or Goods, or any of them, marked as aforesaid, shall be deemed Receivers of Stolen Goods knowing them to have been stolen, and shall, on being convicted thereof in due form of law, be transported beyond the seas for the term of Fourteen Years, in like manner as other Receivers of Stolen Goods are directed to be transported by the Laws and Statutes of this Realm; unless such person or persons shall, upon his, her, or their trial, produce a certificate under the hands of three or more of his Majesty's Principal Officers or Commissioners of the Navy, Ordnance, or Victualling, expressing the numbers, quantities, or weights of such Stores or Goods as he, she, or they shall then be indicted for, and the occasion and reason of such Stores or Goods coming to his, her, or their hands or possession. s. 1.

Persons in whose custody, &c. shall be found canvass or buntin marked as herein mentioned (not being charged to be new, or not more than one-third worn), and persons convicted of any offence contrary to so much of 9 and 10 Gul. 3. as relates to warlike Stores, shall, besides the forfeiture thereby imposed, suffer corporal punishment.

Such person or persons (not being a contractor or contractors, or employed as aforesaid), in whose custody, possession, or keeping any of the said Stores called Canvass, marked with a blue streak in a serpentine form, or Bewper, otherwise called Buntin, wrought as above-mentioned, shall be found, (such Canvas or Bewper, otherwise called Buntin, not being charged to be new, or not more than one-third worn), and all and every person and persons who shall be convicted of any offence contrary to so much of the said recited Act of the ninth and tenth years of the reign of King William the Third as relates to the making, or the having in possession or concealing any of his Majesty's Warlike, or Naval, or Ordnance Stores, marked as therein specified, shall, besides forfeiting such Stores and the sum of two hundred pounds, together with costs of suit as

therein mentioned, be corporally punished by pillory (1), whipping, and imprisonment, or by any or either of the said ways and means, in such manner and for such space of time as to the Judge or Justices before whom such offender or offenders shall be convicted, shall seem meet; any thing in the said last-mentioned Act, or in the before recited Acts of the ninth year of King George the First, and the seventeenth year of King George the Second, to the contrary thereof in anywise notwithstanding: Provided always, that it shall and may be lawful to and for such Judge or Justices to mitigate the said penalty of two hundred pounds, as he or they shall see cause. 39, 40 G. 3. c. 89. s. 2.

Pecuniary penalty may be mitigated.

Provided always, that nothing in this Act, or in the said recited Act of the ninth and tenth years of the reign of King William the Third, contained, shall extend, or be deemed, taken, or construed to extend, to exempt from the operation of this Act, or the said recited Act respectively, any person or persons being a contractor or contractors, or employed as in the said last-mentioned Act is mentioned, except only so far as concerns Stores or Goods marked as aforesaid, which shall be bona fide provided, made up, or manufactured by such person or persons, or by their order, and which shall not have been before delivered into his Majesty's Store, unless having been so delivered, they shall have been sold or returned to such person or persons by the Commissioners of his Majesty's Navy, Ordnance, or Victualling respectively. s. 3.

Nothing herein or in act of Gul. 3. to exempt contractors, &c. except so far as concern stores bona fide made up, &c. By them, unless they have been sold or returned by the Commissioners.

If any person or persons shall, from and after the passing of this Act, wilfully and fraudulently destroy, beat out, take out, cut out, deface, obliterate, or erase, wholly or in part, any of the marks in the said Act of the ninth and tenth years of the reign of King William the Third, or in this Act mentioned, or any other mark whatsoever, denoting the property of his Majesty, his Heirs or Successors, in or to any Warlike or Naval, Ordnance, or Victualling Stores, or cause, procure, employ, or direct any other person or persons so to do, for the purpose of concealing his Majesty's property in such Stores, such person or persons shall be deemed guilty of Felony, and shall, on being convicted thereof, be transported to parts beyond the Seas for the term of Fourteen Years, in like manner as other Felons are directed to be transported by the Laws and Statutes of this Realm. s. 4.

Persons defacing &c. the king's marks in any stores, or employing any person so to do, shall be transported for 14 years.

(1) This part of the punishment is virtually repealed by the general operation of the Statute 56 G. 3. c. 138.

Persons convicted of any offence contrary to this Act, for which he shall not have been transported, or contrary to the Act of Gul. 3. shall, on being convicted of a second offence, which would not, as the first, subject him to transportation, be transported for 14 years.

Persons transported returning before the expiration of the term, ousted of clergy.

The court may mitigate the punishment of transportation to pillory, whipping, fine, or imprisonment.

Application of fines.

Persons discovering or apprehending any offender stealing or embezzling his Majesty's Stores, or being guilty of any offence against the act of Gul. 3. or this act, which

If any person or persons who shall hereafter be convicted of any offence contrary to this Act, for which he shall not have been transported beyond the Seas, or contrary to the said recited Act of the ninth and tenth years of King William the Third, shall be guilty of a second offence, either contrary to that Act or to this present Act, which would not otherwise, as the first offence, subject him, her, or them to Transportation, and shall be thereof legally convicted, such person or persons shall, by Judgment of the Court wherein he, she, or they shall be so convicted, be transported to parts beyond the Seas for the term of Fourteen years, in like manner as other offenders may be transported by the Laws and Statutes of this Realm now in force. 39, 40 G. 3. c. 89. s. 5.

If any person or persons, transported in pursuance of this Act, shall return into any part of Great Britain or Ireland before the End or Expiration of the Term for which he or she shall have been so transported, every such person or persons so returning shall suffer as Felons, and shall have Execution awarded against him, her, or them, as persons attainted of Felony, without Benefit of Clergy. s. 6.

Provided always, that it shall and may be lawful to and for the Court before whom any Offender or Offenders shall be indicted and convicted of all or any of the Crimes or Offences herein-before mentioned to be punishable with Transportation, to mitigate or commute such Punishment, by causing the Offender or Offenders to be set on the Pillory (1), publicly whipt, fined, or imprisoned, or by all or any one or more of the said ways and means as such Court in its discretion shall think fit; one Moiety of which Fine (if any imposed) shall be to his Majesty, his Heirs and Successors, and the other Moiety thereof to the Informer, and also to order such Offender or Offenders to be imprisoned until such Fine be paid; any thing herein-before contained to the contrary thereof in anywise notwithstanding. s. 7.

The eighth Section recites that the establishing by Law a certain Reward to the discoverers of persons guilty of stealing or embezzling any of his Majesty's Naval, Ordnance, or Victualling Stores, or of any of the Crimes or Offences mentioned in the said recited Act of the Ninth and Tenth Years of King William the Third, or in this Act, might tend greatly to the detection of such Offenders; and then enacts, that from

(1) See note (1), ante, p. 461.

and after the passing of this Act, if any person or persons shall discover to his Majesty's Principal Officers or Commissioners of the Navy, Ordnance, or Victualling for the time being, or apprehend, or first inform against any Offender or Offenders who shall have been guilty of stealing or embezzling his Majesty's Stores of War, or Naval, Ordnance, or Victualling Stores, or of any of the Offences mentioned in the said recited Act of the Ninth and Tenth Years of the Reign of King William the Third, or in this present Act herein-before mentioned, which shall not be prosecuted in the summary way herein-after prescribed, so as such Offender or Offenders be convicted thereof, such Discoverer or Discoverers, Apprehenders or Informers, shall have and receive a Reward for such his, her, or their discovery, or for so apprehending or first informing as aforesaid, the Sum of Twenty Pounds (1) for every such Offence so discovered, over and above any share of Penalty or Fine which he, she, or they may be entitled to as the Informer or Informers; so as such Share of Penalty or Fine do not amount to more than the Sum of Twenty Pounds, or (if amounting to more than that Sum) shall fail to be paid by the Offender or Offenders upon whom the same shall be inflicted for the space of Three Calendar Months next after his, her, or their Conviction, provided such Offender or Offenders shall not be detained in pursuance of any Sentence of Imprisonment; and if so detained, such share of Penalty or Fine shall fail to be paid within Three Calendar Months next after the expiration of such Sentence of Imprisonment.

shall not be prosecuted in a summary way, shall, on conviction, receive a reward of £20. over his share of penalty, if not more than that sum.

Provided always, that if any Dispute shall arise between or among any persons who shall have discovered, apprehended, or informed against any Offender or Offenders, as to their title to the said Reward of Twenty Pounds, such Dispute shall be determined by any one or more of the Commissioners either of his Majesty's Navy, Ordnance, or Victualling, as the Offence may have related to their Departments respectively, upon the Oaths of the Claimants, to be taken in Writing either before such Commissioner or before one of his Majesty's Justices of the Peace (which Oath the said Commissioner or Justice is hereby authorized to administer); and whatsoever Decision or Adjudication shall be made by such Commissioner, touching the Premises, shall be final between the parties. s. 9.

Disputes arising respecting the title to such reward shall be determined by a commissioner of the navy, etc.

(2) This reward is not repealed by the Statute 58 G. 3. c. 70. which repeals certain rewards. See title REWARDS.

Reward shall be paid on certificate from the clerk of assise, etc. where the offender shall be tried ;

The principal Officers and Commissioners of his Majesty's Navy, Ordnance, or Victualling, as the case may require, shall cause the said Reward of Twenty Pounds to be paid by the Treasurer of the Navy or Ordnance respectively for the Time being, out of any Public Money in his hands, upon producing to them a Certificate, under the Hand of the Clerk of Assise, or his Deputy, or other proper Officer of the Court before whom such Offender or Offenders shall be tried, certifying the Conviction of the Offender or Offenders, and that the Informer's Share of any Penalty or Fine inflicted upon such Offender or Offenders doth not amount to more than the Sum of Twenty Pounds, or if amounting to more, hath failed to be paid by such Offender or Offenders for the space of Three Months next after his or their Conviction ; unless such Offender or Offenders shall then be detained in pursuance of any Sentence of Imprisonment, and then for the space of Three Months next after the expiration of such Sentence ; which Certificate the said Clerk of Assise or other proper Officer is hereby required to give, and for which he shall charge the Sum of Five Shillings, and no more ; and the Money paid by any such Treasurer on account of such Rewards, shall be allowed in his Accounts, and he shall be discharged thereof accordingly ; any Law, Custom, or Usage to the contrary thereof in anywise notwithstanding. 39, 40 G. 3. c. 89. s. 10.

for which 5s. shall be paid.

Any commissioner of the navy, etc. or any justice of the peace, may grant warrants for searching houses, etc. where oath is made that there is reason to suspect Stores belonging to his Majesty are concealed.

It shall and may be lawful to and for any Commissioner of the Navy, Ordnance, or Victualling, for the time being (who, for the purposes herein-after mentioned, is hereby authorized to act in every respect as if he had been named as a Justice of the Peace in the Commission of the Peace for the County, Division, City, Town Corporate, Liberty, or place in which he shall be resident, or into which his Warrant shall be issued), or any Justice of the Peace for any County, Division, City, Town Corporate, Liberty, or place within this Kingdom, upon the Oath of one or more credible person or persons, that there is reason or cause to suspect that any Navy, Ordnance, or Victualling Stores, or Goods belonging to his Majesty, his Heirs or Successors, are concealed in any Dwelling House, Warehouse, Workshop, Outhouse, Yard, Garden, or other place, or on board any Ship, Vessel, Barge, Boat, or other Craft, by Warrant under his Hand and Seal, to cause every such Dwelling House, Warehouse, Workshop, Outhouse, Yard, Garden, or place, Ship, Vessel, Barge, Boat, or other Craft, in whatsoever County, Division, City, Town Corporate, Liberty, or place, the same or any of them shall be (in case such War-

rant shall be granted by a Commissioner as aforesaid), to be searched, in the Day-time, by any Police Officer, Constable, Headborough, or other Peace Officer, either of the County, Division, City, Town Corporate, Liberty, or place, in which the Premises, Ship, Vessel, Barge, Boat, or other Craft shall be, or in which the Commissioner granting such Warrant (if granted by a Commissioner) shall then reside; and in case any Stores or Goods marked as herein-before, or in the said recited Act of the Ninth and Tenth Years of King William the Third is mentioned, shall upon such Search be found, to cause the same, and the Offender or Offenders, to be brought before such Commissioner or Justice of the Peace, who is hereby required to commit or bind over, or otherwise to deal with such Offender or Offenders according to Law, for such his or their Offence: and that in case, upon any such Search, or upon any Seizure whatsoever of Stores or Goods, marked as aforesaid, any Naval, Ordnance, or Victualling Stores, not so marked as aforesaid, shall be found, which may reasonably be suspected to belong to his Majesty, the party or parties in whose possession or keeping the same shall be found, shall be required to give to the Commissioner, or Justice of the Peace respectively before whom the said Stores or Goods shall and may be brought, an Account, to the satisfaction of such Commissioner or Justice, that the same were not embezzled or stolen from any of his Majesty's Ships or Vessels, Yards, Storehouses, or other places, or that if the same were embezzled or stolen, the same had come to the possession of the said party or parties honestly, and without any knowledge or suspicion that the same had been embezzled or stolen, on Failure whereof by a reasonable time to be set by such Commissioner or Justice of the Peace, the said Stores or Goods shall thereupon become forfeited, and such party or parties shall be deemed and adjudged guilty of a Misdemeanor. 39, 40 G. 3. c. 89. s. 11.

It shall and may be lawful for any person or persons deputed or appointed by the principal Officers or Commissioners of the Navy, Ordnance, or Victualling, or any Three of them respectively, at any time or times from and after the passing of this Act, to stop, search, and detain in some place of safety, any Barge, Boat, or other Craft, which there shall be reason to suspect doth contain any Naval, Ordnance, or Victualling Stores, Ropes, Tackle, Apparel, Furniture, Arms, Ammunition, Materials, and Things stolen, embezzled, or unlawfully procured from or out of any of his Majesty's Ships or Vessels, Yards,

If any marked stores or goods shall be found, the offender shall be dealt with according to law; and if upon such search or any seizure of stores or goods marked, any not marked shall be found, suspected to belong to his Majesty, and the party shall not give a satisfactory account thereof, they shall be forfeited, and he shall be deemed guilty of a misdemeanor.

Persons deputed by the Commissioners of the Navy, etc. may detain any boat, &c. or craft reasonably suspected to contain any articles stolen from his Majesty's vessels, &c. and the parties, who shall be dealt with according to law

respecting marked stores, and those not marked, suspected to belong to his Majesty, and not satisfactorily accounted for, shall be forfeited, and the party deemed guilty of a misdemeanor.

In what cases such boat, &c. or craft, shall be forfeited.

Persons so deputed, or any police or peace

Storehouses, or other Places, and also to apprehend and detain, or cause to be apprehended and detained, any person or persons who may be reasonably suspected of having or conveying any such Stores or other Things in such Barge, Boat, or Craft; and such person or persons so apprehended shall be (as soon as conveniently may be) conveyed before any Commissioner of the Navy, Ordnance, or Victualling for the time being, or before One or more Justice or Justices of the Peace for the County, Division, City, Town Corporate, Liberty, or Place in which such Seizure shall be made, together with the Stores, Ropes, Tackle, Apparel, Furniture, Arms, Ammunition, Materials, and Things so found in such Boat or other Craft; which said Commissioner or Justice is hereby required to commit or bind over, or otherwise to deal with such such person or persons according to Law, in respect to any of the said last mentioned Stores and Things which shall be so marked as aforesaid; and in respect to any of such Stores or Things which shall not be so marked, but which shall nevertheless be reasonably suspected to be the Property of his Majesty, the said person or persons on whom the same shall be found shall be required to give an account, to the Satisfaction of such Commissioner or Justice, that the same were not embezzled or stolen as aforesaid, or that if they were embezzled or stolen, the same had come to his or their Possession honestly, and without any Knowledge or Suspicion that the same had been embezzled or stolen, on failure whereof, by a reasonable Time to be set as aforesaid, the said last-mentioned Stores or Things shall thereupon become forfeited, and the said person or persons so apprehended shall be deemed and adjudged guilty of a Misdemeanor; and in case the said person or persons shall be convicted of stealing, embezzling, or unlawfully having in his, her, or their Possession any of the said Stores or Things which shall be so marked as aforesaid, or shall be adjudged guilty of a Misdemeanor for not giving a satisfactory Account as aforesaid, with respect to such of the said Stores or Things as shall not be so marked as aforesaid, such Barge, Boat, or other Craft in which such Stores or Things, or any of them shall be found, with its Tackle, Apparel, and Furniture, shall, upon such Conviction or Adjudication, become and be adjudged by such Commissioner or Justice forfeited, and shall be disposed of in manner herein-after mentioned. 39, 40 G. 3. c. 89. s. 12.

It shall and may be lawful to and for any person or persons deputed or appointed as aforesaid, or any Police Officer, Con-

stable, Headborough, or other Peace Officer, or any Beadle, or Watchman, (during such time as he shall be on duty), of every Parish and Place where he shall be an Officer, to apprehend and detain, or cause to be apprehended and detained, all and every person and persons who may reasonably be suspected of having or carrying, or anyways conveying any Naval, Ordnance, or Victualling Stores, Ropes, Tackle, Apparel, Furniture, Arms, Ammunition, Materials, and Things stolen or unlawfully procured from or out of any of his Majesty's Ships or Vessels, Yards, Storehouses, or other Places, and also to seize and detain in some place of safety, such Stores, Materials, or Things as last aforesaid, and as soon as conveniently may be to convey, or cause the person or persons so apprehended to be conveyed before any Commissioner of the Navy, Ordnance, or Victualling, or before any One or more Justice or Justices of the Peace for any County, Division, City, Town Corporate, Liberty, or Place in or near to the Place of Seizure, together with the said Stores and other Things; and such and the like Proceedings shall and may be had and taken against the said person or persons in respect of such last-mentioned Stores or Things, whether marked or not marked, and such Forfeiture be incurred, and Adjudication made, as are above directed with respect to Stores found in any Barge, Boat, or other Craft as aforesaid. 39, 40 G. 3. c. 89. s. 13.

officer, or watchman, &c. may apprehend persons suspected of having articles stolen from his Majesty's vessels, &c. and may seize the articles, and convey them and the parties before a Justice, and the like proceedings shall be had as with respect to stores found in any craft.

All and every the Stores, Ropes, Tackle, Apparel, Furniture, Arms, Ammunition, Materials, and Things which are hereinbefore declared to be forfeited on the Party or Parties not giving to the Commissioner or Justice a satisfactory account that the same were not embezzled or stolen as aforesaid, shall be forthwith returned into his Majesty's Store, and shall be applied for the use and benefit of his Majesty, his heirs and Successors, unless proof shall be made within Three Calendar Months next following such seizure, to the satisfaction of such Commissioner or Justice of the Peace, that the same Stores and other things are the property of any other person or persons; in which case the said Commissioner or Justice shall cause the same to be forthwith delivered up to such person or persons, on his or their giving a proper receipt or discharge for the same, and paying the reasonable costs and charges, (to be set by such Commissioner or Justice), attending the conveyance thereof to and from his Majesty's Store, and the warehousing or safe custody thereof from the time of the seizure. s. 14.

Articles forfeited shall be returned into his Majesty's stores, etc. unless proof be made within three months to the contrary.

It shall and may be lawful to and for such Commissioner or Justice of the Peace respectively by whom any Barge, Boat, or

The Commissioner or Justice by whom any

craft shall be adjudged to be forfeited, shall issue his warrant to the officer of the customs for the sale thereof, who shall cause it and the furniture to be publickly sold, and the produce shall be paid to the Commissioner or Justice, and disposed of as herein directed.

other Craft shall be adjudged to be forfeited in pursuance of this Act, and he is hereby authorized and required, forthwith after such adjudication, to issue his warrant to the Collector or other Chief Officer of the Customs at the Port at or nearest to the Place where such seizure shall be made, for the sale of such Barge, Boat, or other Craft; which said Collector or other Chief Officer, by virtue thereof, shall and is hereby authorized and required, within One Month then next following, to cause such Barge, Boat, or other Craft, together with its tackle, apparel, and furniture, to be publickly sold to the highest bidder, notice of which sale shall be given in some or one of the public papers in circulation in the City, Town Corporate, or Place where such sale shall be made; and the money arising from such sale, after payment of the reasonable expences and charges attending the same, and of securing such Barge, Boat, or other Craft from the time of the seizure thereof (to be ascertained by such Commissioner or Justice of the Peace) shall thereupon be forthwith paid by such Collector or other Officer of the Customs into the hands of such Commissioner or Justice of the Peace respectively, and be by such Commissioner or Justice within One Calendar Month then next following paid and disposed of in the manner following; (that is to say), One Moiety thereof to the person or persons (or his or their representatives, if dead) who shall have made seizure of such Barge, Boat, or other Craft, and the other Moiety thereof to the Treasurer of his Majesty's Navy for the Time being (in case the Stores seized shall be Naval or Victualling Stores) to be by him applied in such and the same manner as the monies arising from the sale of old Stores in his Majesty's Dock Yards now are, or for the time being shall be applicable; and in case the Stores seized shall be Ordnance Stores, then the said other Moiety shall be paid to the Treasurer of his Majesty's Ordnance for the time being, to be by him applied in such manner, for the use of his Majesty, as the Master General and principal Officers of his Majesty's Ordnance for the time being shall order and direct. 39, 40 G. 3. c. 89. s. 15.

Persons guilty of misdemeanors shall forfeit certain sums which may be levied by distress to be applied as herein directed, and if distress cannot be found, the offender shall be committed.

Every person deemed and adjudged guilty of any of the misdemeanors aforesaid, before any Commissioner or Justice of the Peace as aforesaid, shall for every such misdemeanor forfeit for the first offence the sum of Forty Shillings; for the second offence the sum of Five Pounds; and for the third and every subsequent offence the sum of Ten Pounds, over and above the other forfeitures above mentioned; all which said respective forfeitures shall and may be levied by distress and sale of the goods and chattels of every

such offender, (rendering to him or them the overplus, after the charges of the said distress and sale deducted), by Warrant under the hand and seal of such Commissioner or Justice of the Peace, before whom such offender was convicted, directed to any Constable or other Peace Officer of the County, Division, City, Town Corporate, Liberty or Place, and shall be disposed of in manner following ; (that is to say), One Moiety to the person or persons apprehending such offender or offenders, or giving information, as the case shall be, and the other Moiety thereof to the Treasurer of the Navy or Ordnance for the time being, as the case may require, to be applied as before mentioned ; and in case the Constable or other Peace Officer to whom such Warrant shall be directed, shall return to such Commissioner or Justice of the Peace that the offender or offenders named therein have not or hath not any goods or chattels in his County or Constablewick, whereby he can levy the said Penalty, (which return the said Constable or other Peace Officer is hereby required in that case to make within a reasonable time, to be set by the said Commissioner or Justice of the Peace, and during which time the said offender or offenders shall be kept in safe custody by the order of such Commissioner or Justice of the Peace), then and in such case the said Commissioner or Justice shall, and he is hereby required by Warrant under his hand and seal, directed as aforesaid, to cause such offenders or offender to be committed to the Common Gaol of the County, Division, City, Town Corporate, Liberty or Place, in which such seizure shall have been made, there to remain without Bail or Mainprize for the space of Three Calendar Months, unless such Penalty shall be sooner paid. s. 16.

Every adjudication in any of the said misdemeanors shall be certified by the Commissioner or Justice of the Peace making the same, to the next General or Quarter Sessions of the Peace for the County, Division, City, Town Corporate or Place in which such seizure shall be made, to be filed and entered amongst the records of the said Session ; and such conviction shall not be set aside or quashed for want of form, nor be liable to be removed by Certiorari, Advocation, or Suspension into any other Court, but shall be deemed and taken to be final to all intents and purposes whatsoever. s. 17.

Such convictions shall be certified to the next Sessions.

The 18th section recites that it might tend to prevent the commission of offences if power were given to the Commissioners of his Majesty's Navy, Ordnance, and Victualling, and his Majesty's Justices of the Peace out of Sessions, to hear and

Any Commissioner of the Navy, &c. or Justice of the Peace, may determine any

complaint for unlawfully selling or receiving stores not exceeding 20 shillings value, and may fine the offender.

determine offences in a summary way in cases where the Stores found are of small value, and to fine or otherwise punish the offenders accordingly; and then enacts, that from and after the passing of this Act, it shall and may be lawful to and for any Principal Officer or Commissioner of the Navy, Ordnance, or Victualling, for the time being, or any Justice of the Peace for any County, Division, City, Town Corporate, Liberty, or Place within this Kingdom, to hear and determine any complaint against any person or persons (not being a contractor or contractors, or employed as aforesaid) for unlawfully selling or delivering, or causing or procuring to be sold or delivered, or for receiving or having in his, her, or their custody, possession, or keeping, or for concealing any Stores of War, or Naval, Ordnance, or Victualling Stores, or Goods marked with such marks respectively as are herein-before mentioned, of any value in the whole not exceeding twenty shillings, which said Commissioner or Justice respectively is hereby authorized and required, upon any Information exhibited or Complaint made in that behalf, at any time within three calendar months next after any such offence shall have been committed, to cause the party or parties accused to be apprehended and brought before him; or if he, she, or they shall have absconded, or cannot be found, then to be summoned to appear before such Commissioner or Justice, by a notice or summons left at his, her, or their last or usual place of abode; and also cause the witnesses on either side to be summoned, and such Commissioner or Justice shall examine into the matter of fact, and upon due proof made thereof, either by the voluntary confession of the party or parties or by the oath of one or more credible witness or witnesses, (which oath the said Commissioner or Justice respectively are hereby authorized to administer), give Judgment or Sentence accordingly; and in case the party or parties accused shall be convicted of such offence, then it shall and may be lawful to and for such Commissioner or Justice of the Peace respectively to inflict a fine of Ten Pounds upon him, her, or them, for such his, her, or their offence; which said fine so inflicted shall be divided and distributed, one moiety thereof to the informer or discoverer of the offence, and the other moiety thereof (the necessary charges for the recovery thereof being first deducted) to the Treasurer of his Majesty's Navy or Ordnance, as the case may be, to be by him applied in such manner as herein-before mentioned with respect to the produce of barges, boats, or other craft seized and sold under the authority of this Act,

Application of fine, which may be levied by distress.

and to award and issue out his Warrant under his hand and seal for levying such fine so adjudged on the goods of the offender or offenders, and to cause sale to be made thereof for payment of such fine and the reasonable charges of distress, (to be judged of by such Commissioner or Justice respectively), in case they shall not be redeemed within six days, rendering to the party the overplus, if any; and where sufficient goods of the party cannot be found to answer the said fine, to commit the said offender or offenders to the Common Gaol of the County, Division, City, Town Corporate, Liberty, or Place, for the space of Three Calendar Months, unless such fine shall be sooner paid, or in lieu of such fine, to cause such offender or offenders to be imprisoned and kept to hard labour in the House of Correction for the space of Three Calendar Months, as to such Commissioner or Justice of the Peace respectively shall be thought fit; and every such Commissioner or Justice shall cause the amount of every such last-mentioned moiety of fine which he shall so receive, and also the moiety of every sum arising from the sale of any Barge, Boat, or other Craft sold under the authority of this Act and paid into his hands as aforesaid, to be paid into the hands of the said Treasurer of the Navy or Ordnance within thirty days after the expiration of the year in which such fines shall be received by him, or in default thereof such Commissioner or Justice respectively shall forfeit the sum of Fifty Pounds, to be recovered with double costs of suit, by any person or persons who shall sue for the same, by action of debt, bill, plaint, or information, in any of his Majesty's Courts of Record at Westminster, or Court of Exchequer in Scotland, wherein no essoign, protection, or wager of law, nor more than one imparlance shall be allowed; one moiety of which last mentioned fine shall go to his Majesty, his Heirs and Successors, and the other moiety thereof, to him or them who shall sue for the same as aforesaid. 39, 40 G. 3. c. 89. s. 18.

If sufficient distress cannot be found, the offender may be committed to the common gaol, or in lieu of the fine may be kept to hard labour in the house of correction.

Provided always nevertheless, that it shall and may be lawful to and for the said Commissioner or Justice before whom any person shall be convicted in a summary way as aforesaid (if he shall see cause), to mitigate and lessen any such before-mentioned Fine of Ten Pounds, to be inflicted in that behalf as he shall think fit, (the reasonable costs of the officers and informers, as well in making the discovery as in prosecuting the same, being always allowed over and above such mitigation), and so as such mitigation do not reduce the fine to less than one moiety of the said sum of Ten Pounds, over and above the said costs and

Fines may be mitigated.

charges; any thing contained in this Act to the contrary thereof in anywise notwithstanding. 39, 40 G. c. c. 89. s. 19.

If in lieu of a fine the offender be imprisoned, the informer shall receive £5 reward upon production of a certificate from the Commissioners or Justice who convicted him.

Provided also, that in case such Commissioner or Justice of the Peace shall, upon the hearing and determining of such Complaint as aforesaid, adjudge the offender or offenders, in lieu of a fine, to be imprisoned and kept to hard labour as aforesaid, that then the informer, or person or persons who shall have discovered such offender or offenders, shall have and receive, as a reward for such his, her, or their discovery, the sum of Five Pounds for every such offence so discovered; and the Principal Officers and Commissioners of his Majesty's Navy, Ordnance, or Victualling, as the case may require, shall cause the said reward of Five Pounds to be paid by the Treasurer of the Navy or Ordnance respectively for the time being, out of any public money in his Hands, upon such informer or other person producing to them a certificate under the hand and seal of the Commissioner or Justice of the Peace who shall have convicted such offender or offenders as aforesaid, certifying such conviction, and the punishment which he hath inflicted upon the offender or offenders; and the name or names of the person or persons who in his judgment is entitled, and in what proportion or proportions to such reward; which certificate the said Commissioner or Justice of the Peace respectively is hereby required to give without fee or reward; and the money paid by any such Treasurer on account of such last-mentioned rewards shall be allowed in his accounts, and he shall be discharged thereof accordingly; any law, custom, or usage to the contrary thereof in anywise notwithstanding: provided also, that no such summary proceeding as before mentioned shall be had before any Justice of the Peace under the authority of this Act, without the consent in writing of the principal Officers or Commissioners of his Majesty's Navy, Ordnance, or Victualling for the time being, or one of them, for that purpose first had and obtained; and that every adjudication or sentence to be had or given without such consent as aforesaid, shall be null and void to all intents and purposes whatsoever. s. 20.

No summary proceeding to be had before any Justice without the consent of the Commissioners of the Navy, &c.

Persons aggrieved, may appeal to the Quarter Sessions.

If any person or persons shall find himself, herself, or themselves aggrieved by the Judgment of any such Commissioner or Justice, touching or concerning any such Stores as last aforesaid, under the value of Twenty Shillings, then he, she, or they, shall or may, upon entering into a recognizance to his Majesty, with one or more surety or sureties, to the satisfaction of such Commissioner or Justice, to the amount of treble the

value of such fine, appeal to the Justices of the Peace at their next General Quarter Sessions of the Peace for the County, Division, City, Town Corporate, Liberty, or Place wherein the offence was committed, who are hereby empowered to summon and examine witnesses upon oath, and finally to hear and determine the same; and in case the Judgment shall be affirmed, it shall and may be lawful for such Justices of the Peace to award the person or persons so appealing to pay such costs occasioned by such appeal as to them the said Justices shall seem meet, and to enforce payment thereof, according to the course and practice of such Court. 39, 40 G. 3. c. 89. s. 21.

And in order to avoid frivolous and vexatious appeals, be it further enacted, that the Commissioner or Justice of the Peace before whom any offender shall be convicted as aforesaid, shall cause the said Conviction to be made out in the manner and form following, or in any other form of words to the like effect *mutatis mutandis*; which Conviction shall be good and effectual to all intents and purposes, without stating the case, or the facts or evidence, or in any more particular manner; (that is to say),

Convictions shall be made out in the following form, or to the like effect.

<p>‘ BE it remembered, That on the</p> <p>‘ in the year of our Lord</p> <p>‘ <i>A. B.</i> of</p> <p>‘ of</p> <p>‘ <i>C. D.</i> one of the Commissioners of his Majesty’s</p> <p>‘ [or, one of his Majesty’s Justices of</p> <p>‘ the Peace for the of <i>as the case may</i></p> <p>‘ <i>be</i>] for that the said <i>A. B.</i> on the day of</p> <p>‘ now last past, at the of in the said</p> <p>‘ of did [<i>here state the offence</i></p> <p>‘ <i>against the Act</i>] contrary to the Statute in such case made</p> <p>‘ and provided.</p> <p>‘ Given under my hand and seal the Day of</p> <p>‘ in the year of our Lord .’</p>	<p>Day of</p> <p>Form.</p>
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Which Conviction the said Commissioner or Justice shall cause to be written fairly upon parchment or paper, and returned to the next General Quarter Sessions of the Peace for the County, Division, City, Town Corporate, Liberty, or Place where such Conviction was made, to be filed by the Clerk of the Peace, and there to remain and be kept among the Records of the same County, Division, City, Town Corporate, Liberty, or Place, and the same shall not be removed by Certiorari, Advocation, or suspension, into any Court whatsoever. s. 22.

And shall be returned to the next Sessions, and shall not be removed into any other Court.

Witnesses neglecting to attend, shall forfeit £10.

If any person or persons shall be summoned as a witness or witnesses, to give evidence before such Commissioner, or Justice or Justices of the Peace, touching any of the matters relative to this Act, either on the part of the prosecutor or of the party or parties accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such his, her, or their neglect or refusal, to be allowed by such Commissioner or Justice or Justices of the Peace before whom the seizure, complaint, or prosecution shall be depending, that then every such person shall forfeit for every such offence the sum of Ten Pounds, to be recovered, levied, and paid and applied, in such manner and by such means as is above directed with respect to fines on summary Convictions. 39, 40 G. 3. c. 89. s. 23.

Nothing herein shall prevent parties accused of selling or receiving stores, under the value of 20 shillings, from being prosecuted as receivers of stolen goods.

Provided always, and it is hereby enacted and *declared*, that nothing herein-before contained which gives to any Commissioner or Justice of the Peace power or authority to hear and determine offences in a summary way, shall extend or be deemed, construed, or taken to extend, to prevent the party or parties accused of selling or delivering, or of having in his, her, or their custody, possession, or keeping, or of receiving or concealing any of the Stores marked as above-mentioned, under the value of Twenty Shillings, from being prosecuted as Receivers of Stolen goods under this Act, or for unlawfully having the same in his, her, or their custody, or concealing the same under the said recited Acts of the Ninth and Tenth Years of the Reign of King William the Third, the Ninth Year of the Reign of King George the First, or the Seventeenth Year of the Reign of King George the Second, in any Court of Record, Oyer and Terminer, or otherwise, as they might have been if no such power or authority had been given; or to take away from any person or Court whatsoever any power, right, jurisdiction, pre-eminence, or authority, which he or they, or any of them, ought lawfully to have had and enjoyed for the hearing and determining of such offences, in case no such power or authority to hear and determine the same in a summary way had been given, so as that the same person shall not be punished twice for the same offence. s. 24.

The Commissioners of the Navy, &c. may sell marked stores, and the buyers may keep them, without incurring any

The said Commissioners of the Navy, Ordnance, or Victualling, for the time being, may sell and dispose of any of the Stores aforesaid, so marked as aforesaid, as they did or might have done before the making of this Act; and that such person or persons as heretofore have or shall hereafter buy any such Stores

or other Stores so marked as aforesaid, of the said respective Commissioners, may keep and enjoy the same, without incurring the Penalty of this Act, or any Law to the contrary whatsoever, upon producing a certificate or certificates, under the hand and seal of Three or more of the said Commissioners, that they bought such Goods or Stores from them at any time before they sold or delivered the same, or before the same were found in their custody, or a certificate from such person or persons as shall appear to have bought the said Stores from them the said Commissioners, that the Stores so sold or delivered by them, or so found in their custody, were the Stores or Part of the Stores so bought of the said Commissioners as aforesaid; in which certificate or certificates, the quantities of such Stores shall be expressed, and the time when and where bought of the said Commissioners, who, or any Three or more of them for the time being, and also the person or persons afterwards selling the same, are hereby empowered and directed from time to time to give such certificate to such person or persons as shall desire the same, and have bought and shall hereafter buy any of the aforesaid Stores, within Thirty Days after the sale and delivery thereof. 39, 40 G. 3. c. 89. s. 25.

penalty, on producing a certificate of their having bought them.

If any person or persons shall make, sign, or give any false certificate, bill of parcels, or other instrument, purporting the identity or the sale or disposal of any Goods or Stores as Goods or Stores so purchased of the said Commissioners aforesaid, or if any person or persons shall utter or publish any such false certificate, bill of parcels, or other instrument purporting as aforesaid, knowing the same to be false, every such offender, upon conviction thereof in due form of law, shall forfeit the sum of Two hundred Pounds, and be further corporally punished, as by this Act is directed with respect to persons having in their possession or concealing his Majesty's Warlike, Naval, or Ordnance Stores, contrary to the said Act of the ninth and tenth years of King William the Third; One Moiety of which Penalty shall be to his Majesty, his Heirs and Successors, and the other Moiety thereof, with full costs of suit, to the informer, to be recovered in such manner as the Penalty of Two hundred Pounds, inflicted by the said last-mentioned Act, is by that Act or any Law now in force, made recoverable. s. 26.

Penalty for giving or publishing false certificates;

£200.

Application of such penalty.

In case any person or persons shall be sued or prosecuted for or by reason of their seizing any such Stores or Goods as aforesaid, or any Barge, Boat, or other Craft in which the same shall have been deposited, and upon the trial of the issue shall make proof, that such

If any person shall be sued for any seizure, and shall prove on the trial that the stores were

marked, or if not marked might be suspected to belong to his Majesty, or if the plaintiff shall not prove that he had a certificate, etc: the defendant shall be acquitted.

Goods or Stores so seized by him or them, or any Part thereof, were so marked as aforesaid, or if not so marked, might reasonably be suspected to belong to his Majesty, or in case the plaintiff or plaintiffs, in such action or suit, shall not at such trial make good proof that he or they was or were so employed, or had such certificate as aforesaid, and that he or they did shew such certificate to the defendant or defendants before the action or suit was commenced or brought, and that such defendant or defendants did not thereupon deliver or offer to deliver back unto the plaintiff or plaintiffs, at their Request, all such Goods and Stores as aforesaid, and the Barge, Boat, or other Craft (if any) in which the same had been deposited, in as good plight and condition as they were at the time of the seizure thereof, such defendant or defendants shall be acquitted and found not guilty thereupon. 39, 40 G. 3. c. 89. s. 27.

The Commissioners shall have the benefit given to Justices of the Peace, by 7 Jac. 1. c. 5.

21 Jac. 1. c. 12. and,

24 Geo. 2. c. 44;

and the peace officers acting under them shall have the protection of the said Acts.

Act shall extend to Scotland; and offences committed there shall be punishable in like manner as those committed in England.

Every Commissioner of the Navy, Ordnance, or Victualling, acting in the execution of this Act, shall have and be entitled to the benefit and protection given to the Justices of the Peace in and by an Act of Parliament made in the seventh year of the reign of the late King James the First, [7 Jac. 1. c. 5.]; and also in and by one other Act of Parliament. made in the twenty-first year of the reign of the said late King James, [21 Jac. 1. c. 12.] and also in and by one other Act of Parliament, made in the twenty-fourth year of the reign of his late Majesty King George the Second, [24 G. 2. c. 44.] in as full and ample manner and form as if such Commissioner had been a Justice of the Peace within the true intent and meaning of the said Acts of Parliament, or any of them; and that all and every Constable, Headborough, or other Peace Officer, or person acting under the warrant or authority of such Commissioner in pursuance of this Act, shall, besides the protection given to persons making seizures as above-mentioned, have and be entitled to the full benefit and protection of the said several last-mentioned Acts of Parliament, in the same manner to all intents and purposes, as if he or they had acted under the warrant or authority of a Justice of the Peace within the meaning of the same Acts. s. 28.

This present Act shall extend to that part of the Kingdom of Great Britain called Scotland; and it is hereby *declared* and enacted by the authority aforesaid, that all persons who shall commit within that part of Great Britain called Scotland any of the offences against this Act herein-before expressed, and shall be lawfully convicted thereof, shall be liable to the same pains, penalties, forfeitures, and disabilities which by this present Act

are declared to be applicable to similar offences committed within that part of Great Britain called England. 39, 40 G. 3. c. 89. s. 29.

All persons accused of having committed any of the Offences against this Act herein-before described, within that part of Great Britain called Scotland, shall be tried according to the Forms used and observed by the Law of Scotland in Trials for Theft or Reset of Theft. s. 30.

But offenders in Scotland to be tried according to the forms there observed in trials for theft or reset of theft.

Provided always, that all Persons accused of Offences and Misdemeanors against this Act within that part of Great Britain called Scotland, and for which, when committed in England, a summary mode of Trial and Conviction is herein-before established, may be tried in the same summary manner within that part of Great Britain called Scotland, before the Judge Ordinary of the Bounds, or before two or more Justices of the Peace in or out of Sessions, and being lawfully convicted thereof, by their own Confession, or by the Oath of one or more credible Witnesses, shall be punished in the manner herein-before directed in cases of such summary Trial and Conviction in England. §. 31.

Persons accused of offences in Scotland, for which in England a summary mode of trial is established, may be so tried there.

All such summary Prosecutions within that part of Great Britain called Scotland, shall proceed, either at the instance of the Procurator Fiscal of the Court before which the party is to be tried, or at the instance of his Majesty's Naval Storekeeper at Leith for the time being, with Concourse of such Procurator Fiscal. s. 32.

At whose instance summary prosecutions in Scotland shall proceed.

All Fines, Penalties, and Forfeitures to be imposed on any person by virtue of this Act, within that part of Great Britain called Scotland, shall be applied in the manner herein-before directed with regard to similar Fines, Penalties, and Forfeitures to be imposed by virtue of this Act in that part of Great Britain called England. s. 33.

Penalties, &c. imposed in Scotland to be applied as in England.

In all cases in which by this present Act or otherwise it is necessary or lawful to institute any Suit, Plaint, Bill, or Action, before any of his Majesty's Courts of Record at Westminster, for any thing done contrary to or in pursuance of this Act within that part of Great Britain called England, it shall be lawful in all similar cases occurring within that part of Great Britain called Scotland, for the party to bring his Action before the Court of Exchequer there, according to the forms and usages observed in that Court: Provided always, that such Action or Suit be brought within the time above specified for bringing such Actions in England. s. 34.

In cases where in England suits may be instituted in any Court of Record at Westminster, in similar cases in Scotland they may be instituted in the Court of Exchequer there.

In questions in Scotland upon matters not herein provided for, the laws there shall be observed.

In all Questions whatsoever occurring within that part of Great Britain called Scotland upon all matters and Things done contrary to or in pursuance of this Act, and which are not herein-before expressly provided for, regard shall be had to the Laws and Usages observed in Scotland in like cases; any thing herein expressed to the contrary notwithstanding. 39, 40 G. 3. c. 89. s. 35.

Persons wilfully giving false evidence, or deposing falsely, shall be liable to the penalties of wilful perjury.

If any person upon examination on Oath or Affirmation before any Commissioner of the Navy, Ordnance, or Victualling respectively, or before any Justice of the Peace in Great Britain, in any matter relating to the Execution of this Act, shall wilfully and corruptly give false Evidence, or shall, in any Information or Deposition sworn, or Affirmation taken in writing before any such Commissioner or Justice, wilfully and corruptly swear or affirm any matter or thing which shall be false or untrue, every such person so offending, and being thereof lawfully convicted, shall be and is hereby declared to be subject and liable to the like Pains and Penalties as any persons convicted of wilful and corrupt Perjury are by any Law now in force subject and liable to. s. 36.

By the Statute 52 G. 3. c. 12. all the Powers, Provisions, &c. of 22 C. 2. c. 5., 9, 10 W. 3. c. 41., 9 G. 1. c. 8., 17 G. 2. c. 40., and 39, 40 G. 3. c. 89. are extended to Ireland.

§ 5.

The Statute 54 G. 3. c. 60. intituled "an Act for the better preventing the Embezzlement of his Majesty's Cordage," recites that the marks usually put to his Majesty's Cordage are frequently taken out of the same for the purpose of concealing his Majesty's Property therein; and it is expedient that other marks should be used in his Majesty's Cordage for the purpose of denoting his Majesty's Property therein; and then enacts, that from and after the passing of this Act, all and every the Pains, Penalties, Forfeitures, Regulations, Restrictions, Powers, Provisions, Matters and Things, in respect to the making, selling, delivering, receiving, having in Possession, and concealing any Cordage wrought either with a white Thread laid the contrary way, or with a Twine laid to the contrary way mentioned and contained in an Act passed in the Ninth and Tenth Years of the Reign of King William the Third, [9, 10 W. 3. c. 41.]; and also in an Act passed in the Thirty-ninth and Fortieth Years of the Reign of his present Majesty, [39, 40 G. 3. c. 89.], shall extend to the making, selling, delivering, receiving, having in Possession, and concealing any Cordage wrought with one or more Worsted Threads, as fully and effectually to all Intents

Provisions of 9 & 10 W. 3. c. 41. and 39 & 40 G. 3. c. 89. extended to cordage wrought with worsted threads.

and Purposes as if the same several Pains, Penalties, Forfeitures, Regulations, Restrictions, Powers, Provisions, Matters and Things were herein and hereby repeated and re-enacted in respect to such last mentioned Cordage; provided always, that nothing herein contained shall extend or be construed to extend to repeal any of the Statutes now in force, or any of the Clauses, Matters, and Things therein contained, in respect to Cordage wrought either with a white Thread laid the contrary way, or with a Twine laid to the contrary way, but that the same marks may be continued to be used to denote his Majesty's Property in such Cordage in the same manner as if this Act had not been passed.

The Statute 55 G. 3. c. 127. which is intituled "an Act to repeal an Act [53 G. 3. c. 126.] and to extend the Provisions of the several Acts relating to his Majesty's Naval, Ordnance, and Victualling Stores, to all other Public Stores," recites, that by the Statute 9, 10 W. 3. c. 41., 9 G. 1. c. 8., 17 G. 2. c. 40. and 39, 40 G. 3. c. 89., divers Provisions were made for preventing the Embezzlement of his Majesty's Naval, Ordnance, and Victualling Stores; and that by the Statute 52 G. 3. c. 12. the said recited Acts, so far as the same severally relate to his Majesty's Naval, Ordnance, and Victualling Stores therein respectively mentioned were extended to Ireland; and that by the Statute 53 G. 3. c. 126. it was enacted, that the said Act [9, 10 W. 3. c. 41.] should extend to all Public Stores whatsoever, and that by reason of divers Omissions and Imperfections in the said recited Act of the Fifty-third Year of the Reign of his present Majesty, it is expedient that the same should be repealed, and such further Provisions made in lieu thereof as herein-after mentioned; and enacts, that from and after the passing of this Act the said recited Act of the Fifty-third Year of the Reign of his present Majesty shall be and the same is hereby repealed, to all Intents and Purposes whatsoever, except as to any Offence or Offences which may have been committed against the said last mentioned Act and the Prosecution and Punishment of any person or persons for the same.

§ 6.

The statute
53 G. 3. c. 126.
repealed.

From and after the passing of this Act, not only the said recited Act of the Ninth and Tenth Year of the Reign of King William the Third, but also the said several other Acts of the Ninth Year of the Reign of King George the First, the Seventeenth Year of the Reign of King George the Second, and the Fortieth Year of the Reign of his present Majesty, herein-before recited, so far as the same severally relate to his Majesty's Naval, Ordnance, and Victualling Stores therein respectively men-

Recited acts of
9 & 10 W. 3.
c. 41.
9 G. 1. c. 8.
17 G. 2. c. 40.
and 39 & 40 G. 3.
c. 89. so far as
relates to naval,
ordnance, and
victualling stores,
shall extend to
all public stores.

and to all marked in any way, and to unauthorized persons using such marks, &c. and to persons in whose custody, &c. any such marked stores shall be found, or concealing the same;

and to persons wilfully destroying, defacing, &c. such marks, or employing any one so to do.

tioned, and all the Pains, Penalties, Forfeitures, Regulations, Restrictions, Powers, Provisions, Clauses, Matters and Things therein respectively contained, relating to his Majesty's Naval, Ordnance, and Victualling Stores therein respectively mentioned, shall extend and be construed to extend to all Public Stores whatsoever, under the Care, Superintendence, or Controul of any Officer or Person in the Service of his Majesty, his Heirs or Successors, or employed in any Public Department or Office, either marked with the Marks or any of them in the said recited Acts or any of them specified, or with the Broad Arrow, and the Letters B. O., or with a Crown and the Broad Arrow, or with his Majesty's Arms, or with the Letters G. R., to denote the Property of his Majesty, his Heirs or Successors, therein, and to all and every person and persons, not authorized by the proper Officer or Officers, person or persons in his Majesty's Service, in that behalf so to do, using any such Marks or making any Goods marked with such Marks, or any of them, and to all and every person and persons in whose Custody, Possession, or Keeping any such Public Stores so marked as aforesaid shall be found, or who shall willingly or knowingly receive or have in his, her, or their Custody, Possession, or Keeping, or who shall conceal any such Public Stores so marked as aforesaid, unless such person or persons shall upon his, her, or their Trial produce a Certificate or Certificates under the Hand or Hands of the proper Officer or Officers, Persons or Person in his Majesty's Service authorized to grant the same, of such and the like nature as the Certificate in the said recited Acts of the Ninth and Tenth Year of the Reign of King William the Third, and Fortieth Year of the Reign of his present Majesty mentioned, and to all and every person and persons who shall wilfully and fraudulently destroy, beat out, take out, cut out, deface, obliterate, or erase, wholly or in part, any of the said Marks, or cause, procure, employ, or direct any other persons or person so to do, for the purpose of concealing the Property of his Majesty, his Heirs or Successors therein, as fully and effectually to all Intents and Purposes, as if all the same several Pains, Penalties, Forfeitures, Regulations, Restrictions, Powers, Provisions, Clauses, Matters, and Things, in the said several Acts contained, so far as the same severally relate to his Majesty's Naval, Ordnance, and Victualling Stores, and the Punishment of persons offending in manner therein mentioned, were herein and hereby severally repeated and re-enacted in respect to all other Public Stores whatsoever. s. 2.

XV. *Breaking or by force entering into any Mine, &c. of Black Lead, &c., with intent to steal, or stealing any Black Lead, &c.*

The Statute 25 G. 2. c. 110. recites that “ by experience it hath been found, that Wad or Black Cawke, commonly called Black Lead, is, and hath been necessary for divers useful purposes, and more particularly in the casting Bomb Shells, Round Shot, and Cannon Balls; and that such Wad, Black Cawke, or Black Lead, hath hitherto been discovered in one Mountain, or Ridge of Hills, only in this Realm; and that great waste and destruction therein hath of late years been made by wicked and evil-disposed persons, who, by reason of the situation of the Mine or Mines, Wad-hole or Wad-holes of the said Wad, Black Cawke, or Black Lead, and of the great difficulty to secure and preserve the same from being unlawfully broke, or by force entered into; and also by reason of the small Punishment by the Laws now in being, annexed to Offences of the like kind, have been encouraged unlawfully to enter, and by force to keep possession of the same; and from thence, unlawfully to take and carry away great quantities of the said Wad, Black Cawke, or Black Lead;” and then “ for the more effectual security of all and every Mine or Mines, Wad-hole or Wad-holes of Wad, or Black Cawke, commonly called Black Lead; and for preventing the unlawful breaking and entering into the same; or the unlawful taking and carrying away from such Mine or Mines, Wad-hole or Wad-holes, any Wad, Black Cawke, or Black Lead; and for punishing such Offenders in a more exemplary manner than by the Laws in being can now be done;” it is enacted, that all and every person and persons that shall, from and after the 24th June 1752, unlawfully break, or by force enter into any Mine or Mines, Wad-hole or Wad-holes of Wad, or Black Cawke, commonly called Black Lead, or into any Pit, Shaft, Adit, or Vein of Wad, Black Cawke, or Black Lead, with an intent to take and carry away from thence any Wad, Black Cawke, or Black Lead; or shall unlawfully from thence take and carry away any Wad, Black Cawke, or Black Lead, although such Mine or Mines, Wad-hole or Wad-holes, Pit, Shaft, Adit, or Vein, be not actually broke, or by force entered into by such Offender or Offenders; or shall aid, abet, assist, hire, or command any person or persons to commit such Offence or Offences as aforesaid; that then and in

The entering into any mines, &c. of black lead, with intent to steal any black lead, &c.;

or the assisting, or hiring persons to do so, declared to be felony;

and the offenders shall be committed for a year, and publicly whipt;

or to be transported for seven years;

and if they escape from prison, or return from transportation, they are to suffer death;

and a certificate of the former conviction or attainer produced to the Court, where the offender shall be apprehended, deemed sufficient proof thereof.

every such case all and every such person or persons shall be deemed and construed to be guilty of Felony; and it shall and may be lawful for the Court or Judge before whom any such person or persons so offending as aforesaid shall be lawfully convicted, to order such Offender or Offenders to be committed to the Prison or Gaol of the said County, appointed for Criminals, or to some House of Correction within the same County, for a time not exceeding One Year, there to be kept to Hard Labour during all the said time, and to be publicly whipt by the common Hangman, or by the Master of such House of Correction, at such times, and at such places, and in such manner, as such Court or Judge shall think proper; or it shall and may be lawful to and for such Court or Judge, or for any other subsequent Court held at the same place, with the like authority as the former, to order such Offender or Offenders to be transported to some of his Majesty's Plantations beyond the Seas, for a term not exceeding Seven Years, as such Court or Judge shall think most proper; and thereupon Judgment shall be given, that the person or persons so convicted, shall be committed and whipt, or transported accordingly; and if Transportation shall be directed, the same shall be executed in such manner as is or shall be provided by Law for the Transportation of Felons; and if any such person or persons so committed or transported shall voluntarily escape or break Prison, or return from Transportation before the expiration of the time for which he, she, or they shall be ordered to be transported as aforesaid, such person or persons being thereof lawfully convicted, shall suffer Death as a Felon, without Benefit of Clergy, and shall be tried for such Felony in the County where he, she, or they so escaped, or where he, she, or they shall be apprehended. s. 1.

If any person shall be convicted or attainted of any of the offences aforesaid, and shall voluntarily escape, break Prison, or return from Transportation as aforesaid, and shall be apprehended in any other County or City different from that wherein the said offence was committed, the Clerk of the Assise, or Clerk of the Peace for the County or City where such Conviction or Attainder for the said offence or offences was had, shall, at the request of the prosecutor, or of any other on his Majesty's behalf, certify the same by a transcript in few words, containing the effect and tenor of such Conviction or Attainder, for which certificate two shillings and sixpence, and no more,

shall be paid; and such certificate being produced in Court shall be sufficient proof of such former Conviction or Attainder. s. 2.

All and every person or persons, who shall, from and after the said 24th June 1752, buy or receive any Wad or Black Cawke, commonly called Black Lead, knowing the same to be unlawfully taken and carried away as aforesaid, shall be deemed and construed to be guilty of Felony, and being convicted thereof, shall be subject and liable to all the pains and penalties which any person or persons can or may by the Laws and Statutes of this Realm, be subject and liable to, for buying or receiving any Goods or Chattels that have been feloniously taken or stolen, knowing the same to have been stolen. s. 3.

The buyers or receivers of black lead, &c. knowing such to be stolen, deemed guilty of felony;

and be liable to the same punishment as other receivers of stolen goods.

The Statute 56 G. 3. c. 73, intituled "An Act for removing difficulties in the Conviction of offenders stealing Property from Mines" recites, that "the Minerals, and the Timber, Iron, and other Materials used in or for the working of Mines, are much exposed to depredation; and that great difficulties have been experienced in prosecuting to Conviction, and bringing to Justice, persons who have stolen such Property, by reason of the rule of law which at present prevails throughout that part of Great Britain called England, for setting forth in Indictments for Larceny the names of all the persons who may be the owners of or are interested in the Property stolen; and that the identity of such Property may be ascertained and described as effectually by averring the same in such Indictment to be the property of some one or more of the partners in such Mining Concerns, and others his or their partners or co-adventurers, without naming such other partners or co-adventurers;" and then enacts, that from and after the passing of this Act it shall and may be lawful, and shall be deemed sufficient, to all intents and purposes whatsoever, for the Conviction of any offender or offenders charged in any Indictment with Grand or Petty Larceny for or on account of stealing any Minerals, or any Timber, Iron, or other Materials used in or for the working of Mines, being the Personal Property of any Company or Adventurers carrying on the same, to alledge and aver that the Minerals, Timber, Iron, or other Materials, so stolen, are the property of some one or more of the partners or Adventurers in such Mining Concern, and others his or their partners or co-adventurers, without naming such other partners or co-adventurers; and that such form of describing the Property stolen from such Company or Adventurers shall be, to all intents and purposes whatsoever, as valid and effectual in law as if the same were averred to be

In whom the property shall be laid in cases of larceny from mines.

the Property of all the owners thereof, and as if the Names of all such owners were particularly and distinctly set forth in such Indictment; any law, custom, or usage to the contrary thereof in anywise notwithstanding.

XVI. *Larceny of Fish in any River, Pond, &c. or Stream of Water.*

§ 1.

Persons armed and disguised stealing fish out of any river or pond;

or forcibly rescuing such offenders;

or procuring others to join them in such acts, declared guilty of felony, without clergy.

By the Statute 9 G. 1. c. 22. (usually called the Black Act, for the preamble to which see that title,) it is enacted, that if any person or persons, after 1 June 1723, being armed with swords, fire-arms, or other offensive weapons, and having his or their faces blacked, or being otherwise disguised, shall unlawfully steal or take away any Fish out of any River or Pond, or shall forcibly rescue any person being lawfully in custody of any Officer or other person for any of the offences before mentioned, or if any person or persons shall, by gift or promise of money or other reward, procure any of his Majesty's Subjects to join him or them in any such unlawful Act, every person so offending, being thereof lawfully convicted, shall be adjudged guilty of Felony and shall suffer Death as in cases of Felony without benefit of Clergy.

By s. 4, 5. offenders not surrendering themselves after proclamation, and persons concealing offenders after the time appointed for such surrender, are also ousted of Clergy. See these sections under title BLACK ACT.

By s. 14. offenders may be tried in any County in England, and Corruption of Blood is saved.

The above Statute was made perpetual by 31 G. 2. c. 42. s. 8.

§ 2.

Penalty for taking fish in any river, stew, &c. without the owner's consent.

If any person shall use any net, or shall take Fish by any means or device, in any River, Stew, Pond, Mote, or other Water as aforesaid, or shall be aiding or assisting thereunto, without the licence or consent of the owner of the said Water, and be thereof convict before any Justice, &c. such offender, in stealing, taking, or killing Fish, shall for every such offence give such recompense as the Justice, &c. shall appoint, not exceeding treble damages, and pay 10s. to the poor, &c. 22, 29 Car. 2. c. 25. s. 7.(1)

§ 3.

Persons convicted of stealing or destroying fish in any stream, river, or pond, being in an inclosed place, or aiding therein, shall be transported for seven years.

The Statute 5 G. 3. c. 14. recites, that the several Laws in being for the preservation of the Fish in Rivers, Ponds, Pools, Moats, Stews, and other Waters, are by experience found to be ineffectual to deter divers loose, idle, and disorderly persons from stealing, taking away, or destroying the Fish therein bred and preserved; and then enacts, that in case any person or persons, from and after 1 June 1765, shall enter into any Park or

(1) These provisions are repealed by those of the Statute immediately following.

Paddock fenced in and inclosed, or into any Garden, Orchard, or Yard, adjoining or belonging to any Dwelling House, in or through which Park or Paddock, Garden, Orchard, or Yard, any River or Stream of Water shall run or be, or wherein shall be any River, Stream, Pond, Pool, Moat, Stew, or other Water, and by any ways, means, or device whatsoever, shall steal, take, kill, or destroy any Fish, bred, kept, or preserved in any such River or Stream, Pond, Pool, Moat, Stew, or other Water aforesaid, without the consent of the owner or owners thereof, or shall be aiding or assisting in the stealing, taking, killing, or destroying any such Fish as aforesaid, or shall receive or buy any such Fish, knowing the same to be so stolen or taken as aforesaid; and being thereof indicted within Six Calendar Months next after such offence or offences shall have been committed before any Judge or Justices of Gaol Delivery for the County wherein such Park or Paddock, Garden, Orchard, or Yard shall be, and shall, on such indictment, be by verdict or his or their own confession or confessions, be convicted of any such offence or offences as aforesaid, the person or persons so convicted shall be transported for Seven Years. s. 1.

And for the more easy and speedy apprehending and convicting of such person or persons as shall be guilty of any of the offences before mentioned; be it enacted, that if any person or persons shall, at any time after the said 1 June, commit or be guilty of any such offence or offences as are herein-before mentioned, and shall surrender himself to any one of his Majesty's Justices of the Peace in and for the County where such offence or offences shall have been committed; or, being apprehended and taken, or in custody, for such offence or offences, or on any other account, and shall voluntarily make a full confession thereof and a true discovery upon oath of the person or persons who was or were his accomplice or accomplices in any of the said offences, so as such accomplice or accomplices may be apprehended and taken, and shall on the trial of such accomplice or accomplices give such evidence of such offence or offences as shall be sufficient to convict such accomplice or accomplices thereof, such person making such confession and discovery, and giving such evidence as aforesaid, shall by virtue of this Act be pardoned, acquitted, and discharged of and from the offence or offences so by him confessed as aforesaid. s. 2.

Offenders discovering and convicting others, shall be pardoned.

Provided that persons convicted of any offence against this Act, shall not be liable to be convicted for any such offence under any former Act now in force. s. 7.

XVII. *Larceny of Oysters or Oyster Brood, from Oyster Beds, Oyster Layings, or Oyster Fisheries.*

(See Title FISH and FISHERIES.)

The Statute 48 G. 3. c. 144. intituled, "An Act for the more effectual Protection of Oyster Fisheries and the Brood of Oysters, in England;" recites that the provisions of the Statute 31 G. 3. c. 51. (1) have been found inadequate to the Protection of the Oyster Fisheries of this Kingdom; and that doubts have arisen, since the passing of the said Act, whether the taking Oysters or Oyster Brood from any Oyster Bed or Laying, or from any Oyster Fishery, can under any circumstances be deemed Felony, and punishable as such; and that it is therefore expedient and necessary that more effectual provision should be made for the Protection of the Oyster Fisheries, and for removing such doubts as aforesaid; and then *declares* and enacts, that every person who shall at any Time after 1st August 1808, knowingly and wilfully steal, take, and carry away any Oysters or Oyster Brood from any Oyster Bed, or Oyster Laying, or Oyster Fishery, being the Property of any person or persons or Body or Bodies Politic or Corporate, and sufficiently marked out as such, shall be deemed guilty of Felony, and shall and may be transported for any Term not exceeding Seven Years, or be imprisoned and kept to Hard Labour in any Common Gaol or House of Correction, or Penitentiary House, or imprisoned only for any term not exceeding Three Years, as the Court before whom any such person shall be convicted may adjudge.

Persons stealing oysters or oyster brood from oyster beds, &c. declared guilty of felony, and may be transported, &c.

Act not to affect persons claiming a right to take away such oysters, &c.

Parish need not be named in indictments, and where the county cannot be ascertained the offence may be stated to be in the county where the indictment is preferred.

Provided always, that nothing in this Act contained shall extend, or be construed to extend, to subject or make liable any person or persons to the Penalties of this Act, who shall take or carry away any Oyster or Oyster Brood from any Oyster Bed, Oyster Laying, or Oyster Fishery, wherein such person or persons shall have or claim to have a right to take and carry away such Oysters, or Oyster Brood. s. 2.

The third section recites, that doubts may arise in what Parish or County any Oyster Beds, Layings, or Fisheries are situated, and on that account difficulties may occur in bringing Offenders to Justice; and enacts, that it shall be sufficient in any Indictment under this Act, or under the said recited Act of the Thirty-first Year aforesaid, to describe, either by name or otherwise, the Bed, Laying, or Fishery in which the Offence

(1) See this act under title FISH and FISHERIES.

shall have been committed, without stating the same to be in any particular Parish; and where the Offence is committed on the Border of any County, so as to make it difficult to ascertain the County, such Offence may be stated to have been committed in the County in which the Indictment shall be preferred, being either the County in which the Offence was committed, or the adjoining County.

The fourth section recites, that it is doubtful whether Justices of the Peace for Towns Corporate, Boroughs, or other places, and not being Counties of themselves, and having special or exclusive Jurisdictions, can act by virtue of the Statute of the Thirty-first Year aforesaid; and then enacts and *declares*, that it shall be lawful for such Justices to act in all cases arising within their respective Jurisdictions in like manner as any Justice of the Peace for any County, Riding, or Division may act for such County, Riding, or Division, in the execution of the said Act, or of any Law for protecting the Oyster Fisheries, and Broods of Oysters.

Justices for towns, &c. may act as Justices for counties.

Nothing herein contained shall extend, or be construed to extend, to repeal any of the Provisions of the said Act of the Thirty-first Year aforesaid, except so far as the same respect the stealing and taking of Oysters from any Oyster Bed, Laying, or Fishery. s. 5.

Provisions of 31 G. 3. c. 57. not repealed by this act, except as to stealing oysters.

XVIII. *Larceny by Lodgers.*

Whereas it is a frequent practice for idle and disorderly persons to hire Lodgings with an intent to have an opportunity to take away, imbezil, or purloin the Goods and Furniture being in such Lodging, be it therefore enacted and declared, that if any person or persons shall take away, with an intent to steal, imbezil, or purloin, any Chattel, Bedding or Furniture, which by Contract or Agreement he or they are to use, or shall be let to him or them to use in or with such Lodging, such taking, imbezzling, or purloining, shall be to all Intents and Purposes taken, reputed, and adjudged to be Larceny and Felony, and the Offender shall suffer as in case of Felony. 3 W. & M. c. 9. s. 5.

It shall be felony to take away, embezzle, or purloin chattels let to be used with furnished lodgings.

This Act is continued by 4, 5 W. & M. c. 24. s. 13., and made perpetual by 6, 7 W. 3. c. 14. s. 1.

XIX. Larceny by Servants in general.

§ 1.

Proceedings to
be had against
servants taking
and spoiling their
master's goods
after the death
of such master.

First, our foresaid Lord the King, considering how that of late time divers Household Servants, as well of Lords as of other persons of good degree, shortly after the death of their Lords and Masters, violently and riotously have taken and spoiled the Goods which were of their said Lords and Masters at the time of their death, and the same distributed amongst them, to the impediment of the Execution of the Will of their said Lords and Masters, and to the great displeasure of God, and also contrary to the duty and truth which they ought to have had towards their said Lords and Masters, and to a perilous example in time to come, unless due remedy in this behalf be provided; wherefore the same Lord the King, by the Advice, Assent, and Authority aforesaid, hath ordained and established, that after full Information made to the Chancellor of *England* for the time being, by the Executors of any such Lord or Person, or Two of the said Executors, of such riot, taking, and spoil made, or hereafter to be made, by the Household Servants of their or his said Testator after his death, the same Chancellor, by the advice of the Chief Justices of the King's Bench, and of the Common Bench and Chief Baron of the Exchequer for the time being, or Two of them, shall have power to make so many and such Writs, to be directed to such Sheriffs by their discretion, as to them in this behalf shall seem necessary, to make open Proclamation in such Cities, Boroughs, Towns, or Places, Two Market Days, within Twelve Days next after the delivery of the same Writs, as to the same Chancellor, by the Advice aforesaid, shall seem reasonable; that the same Offenders shall appear before the same our Lord the King, or his Heirs in his Bench, at such a day as by the said Writ shall be limited, so that the said Proclamation be made by Fifteen Days before the same day of Appearance; and if any such Writ be returned at the day contained in the said Writ, and the Writ be executed, that Proclamation is thereupon had and made according to the said Ordinance, and then if the said person or persons which should appear by reason of the said Proclamation, make default at the day specified in the said Writ, and do not appear, then he or they so making default shall be attainted of Felony.

And if any person or persons do appear at the same day, then the Justices of the said King's Bench shall have power by the said Ordinance, to commit such person or persons so

appearing to Prison, there to remain according to the said Justices discretion, until the said Offenders in the said Bench do answer to the said Executors in such Actions, which the said Executors will declare against them, or any of them, by Bill or by Writ, for the Riot, taking and spoiling aforesaid, and that the same Actions be determined; so that the same Actions be pursued with effect and not slackly, to the intent to keep the same person or persons in prison; and if such person or persons be set at liberty out of Prison by the said Justices, that then the same person or persons shall find sufficient persons to be bounden with them to the said Executors, by way of Recognizance in the said Bench, by discretion of the Justices, to keep such days as he or they shall have by the same Court; and if the Keepers of the Prison whereunto the said person or persons be committed, do let them go at large out of the Prison of his own Authority, without the Consideration and Order of the said Justices, then the said Keeper shall forfeit and lose Forty [Four hundred] Pounds to the said Executors; and that no protection be allowed in any Action to be taken upon the said Ordinance.

38 H. 6. c. 1.

The Statute 21 H. 8. c. 7. reciting that where divers the the King's subjects had upon confidence and trust delivered to their Servants their Caskets and other Jewels, Money, Goods, and Chattles, safely to be kept to the use of their said Masters or Mistresses, and after such delivery, such Servants had withdrawn themselves, and gone away with the said Caskets, &c. or part thereof, to the intent to steal the same, and defraud their said Masters, &c. thereof, and some time being with such Masters, &c. have converted the said Jewels, Money, Goods, and Chattles, or part thereof, to their own use, which misbehaviour so done was doubtful in the Common Law whether it were Felony or not; be it therefore enacted, that all and singular such Servants to whom any such Caskets, Jewels, Money, Goods, or Chattles by his or their said Masters or Mistresses shall from henceforth so be delivered to keep, that if any such Servant or Servants withdraw him or them from their said Masters or Mistresses, and go away with the said Caskets, Jewels, Money, Goods, or other Chattles, or any part thereof, to the intent to steal the same, and defraud his or their said Masters or Mistresses thereof, contrary to the trust and confidence to him or them put by his or their said Masters or Mistresses, or else being in the service of his said Master or Mistress, without assent or commandment of his

§ 2.

Servants embezzling their masters goods to the value of 40s. declared guilty of felony.

Masters or Mistresses he embezel the same Caskets, Jewels, Money, Goods, or Chattles, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal it, that if the said Caskets, Jewels, Money, Goods, or Chattles that any such Servant shall so go away with, or which he shall embezel, with purpose to steal it, as is aforesaid, be of the value of xl. s., or above, that then the same false, fraudulent, and untrue act or demeanour from henceforth shall be deemed and adjudged Felony, and he or they so offending to be punished as other Felons be punished for Felonies committed, by the course of the Common Law. 21 H. 8. c. 7.

Exceptions in
favour of appren-
tices and persons
under 18.

This Act shall not extend to Apprentices committing any such offence during the period of their Apprenticeship, nor to any servant within the age of 18 years. s. 2.

By the Statute 27 H. 8. c. 17. Clergy was also taken away in this case, and both Statutes were made perpetual by 28 H. 8. c. 2., and the Statute 27 H. 8. c. 17. was confirmed by 1 Ed. 6. c. 12. s. 18.; but both these Acts were repealed by the Statute 1 M. st. 1. c. 1. s. 5. which enacted, that "all offences made Felony, or limited or appointed to be within the case of *premunire* by any Act or Acts of Parliament, Statute or Statutes made sithence the first day of the first year of the reign of the late King Henry the 8th, not being Felony before, nor within the case of *premunire*, and also all and every branch, article, and clause mentioned, or in anywise declared in any of the same Estatutes, concerning the making of any offence or offences to be Felony, or within the case of *premunire*, not being Felony, nor within the case of *premunire* before, and all pains and forfeitures concerning the same, or any of them, shall from henceforth be repealed, and utterly void and of none effect." The Statute 21 H. 8. c. 7. was however revived by the Statute 5 Eliz. c. 10. which recites that Statute, and that by the general words of the Statute of 1 M. st. 1. c. 1. the said Statute 21 H. 8. c. 7. was from thenceforth utterly repealed and made void; and "that forasmuch as sithence the repeal of the same, the said Act is thought necessary for the common wealth of this Realm;" and then enacts, that the said Act made in the one and twentieth year, and every clause, article, branch, sentence, and provision therein contained, be from henceforth revived and put in due execution, according to the intent and meaning thereof, and from thenceforth shall stand good, endure, and continue for ever.

The Statute 12 Ann st. 1. c. 7. recites that divers wicked and ill-disposed Servants and other persons are encouraged to commit Robberies in Houses by the privilege as the law is, of demanding the benefit of their Clergy; and then enacts, that all and every person or persons that shall at any time from and after 1 July 1713 feloniously steal any Money, Goods, or Chattels, Wares, or Merchandizes of the value of forty shillings or more, being in any Dwelling-house or Outhouse thereunto belonging, although such House or Outhouse be not actually broken by such offender, and although the owner of such Goods, or any other person or persons be or be not in such House or Outhouse, or shall assist or aid any person or persons to commit any such offence, being thereof convicted or attainted by verdict or confession, or being indicted thereof shall stand mute, or shall peremptorily challenge above the number of twenty returned to be of the Jury, shall by virtue of this Act be absolutely debarred of and from the benefit of Clergy; any law or custom to the contrary notwithstanding.

By s. 2. the Act shall not extend to Apprentices under the age of fifteen years, who shall rob their Masters as aforesaid.

The Statute 39 G. 3. c. 85. which is intituled "An Act to protect Masters against Embezzlements by their Clerks or Servants" recites, that "Bankers, Merchants, and others are, in the course of their dealings and transactions, frequently obliged to entrust their Servants, Clerks, and persons employed by them in the like capacity, with receiving, paying, negotiating, exchanging, or transferring Money, Goods, Bonds, Bills, Notes, Bankers Drafts, and other valuable Effects and Securities; and whereas doubts have been entertained whether the embezzling of the same by such Servants, Clerks, and others so employed by their Masters amounts to Felony by the Law of England; and it is expedient that such offences should be punished in the same manner in both parts of the United Kingdom;" and then enacts and declares, that if any Servant or Clerk, or any person employed for the purpose in the capacity of a Servant or Clerk to any person or persons whomsoever, or to any Body Corporate or Politic, shall by virtue of such employment receive or take into his possession any Money, Goods, Bond, Bill, Note, Banker's Draft, or other valuable Security or Effects, for or in the name or on the account of his Master or Masters, or Employer or Employers, and shall fraudulently embezzle, secrete, or make away with the same, or any part thereof, every such offender shall be deemed to have feloniously stolen the same

Servants, &c. stealing to the value of 40s. in any dwelling house or outhouse thereto belonging, ousted of clergy.

§ 3.

Servants or clerks embezzling money, or value on security, &c. declared guilty of stealing the same, and may be transported for fourteen years.

from his Master or Masters, Employer or Employers, for whose use or in whose name or names, or on whose account, the same was or were delivered to or taken into the possession of such Servant, Clerk, or other person so employed, although such Money, Goods, Bond, Bill, Note, Banker's Draft, or other valuable Security was or were no otherwise received into the possession (1) of his or their Servant, Clerk, or other person so employed; and every such offender, his adviser, procurer, aider, or abettor being thereof lawfully convicted or attainted, shall be liable to be transported to such parts beyond the Seas as his Majesty, by and with the advice of his Privy Council, shall appoint for any term not exceeding Fourteen Years, in the discretion of the Court before whom such offender shall be convicted or adjudged.

XX. Larceny and Embezzlement by Servants of Public Company and by Public Officers, &c.

i. By Servants of the Bank of England.

Servants of the Bank embezzling any note, bill, dividend warrant, bond, deed, &c. entrusted with them, declared guilty of felony, without clergy.

If any Officer or Servant of the said Company (2), being entrusted with any Note, Bill, Dividend Warrant, Bond, Deed, or any Security, Money, or other Effects belonging to the said Company, or having any Bill, Dividend Warrant, Bond, Deed, or any Security or Effects, of any other person or persons lodged or deposited with the said Company, or with him as an Officer or Servant of the said Company, shall secrete, embezzle, or run away with any such Note, Bill, Dividend Warrant, Bond, Deed, Security, Money or Effects, or any part of them; every Officer or Servant so offending, and being thereof convicted in due form of Law, shall be deemed guilty of Felony, and shall suffer Death as a Felon, without benefit of clergy. 15 G. 2. c. 13. s. 12.

Officers or servants of the Bank embezzling any

The Statute 35 G. 3. c. 66. for making certain Annuities created by the Parliament of Ireland transferrable, and the Di-

(1) By some blunder in the fair copy, taken from the original draft of the Act, a line has been here omitted, which was in the original draft prepared by Mr. East himself; the words omitted are those which follow in italics; "although such money, &c. was or were no otherwise received into the possession of such master or masters, employer or employers, than by the actual possession of his or their servant," &c. the insertion of which words will make the language of the Legislature, as to the particular occasion of passing the act, more intelligible than it is at present. See East, P. C. 575. note (a).

(2) Of the Bank of England.

vidends payable at the Bank of England, enacts (s. 6.) that from and after the passing of this Act, if any Officer or Servant of the said Governor and Company of the Bank of England, being entrusted with any Note, Bill, Dividend Warrant, or Warrant for payment of any Annuity or Interest, or Money, or any Security, Money, or other Effects of or belonging to the said Governor and Company; or having any Note, Bill, Dividend Warrant, or Warrant for Payment of any Annuity or Interest, or Money, or any Security, Money, or other Effects of any other person or persons, Body Politic or Corporate, lodged or deposited with the said Governor and Company, or with him as an Officer or Servant of the said Governor and Company, in pursuance of this Act, or of the due execution thereof, shall secrete, embezzle, or run away with any such Note, Bill, Dividend or other Warrant, Security, Money, or other Effects as aforesaid, or any part thereof; every such Officer or Servant so offending shall be deemed guilty of Felony, and shall suffer Death as a Felon without benefit of Clergy.

bill, warrant, security, or other effects, shall be guilty of felony, without clergy.

The Statute 37 G. 3. c. 46. s. 6. (which was passed for similar purposes as the foregoing) re-enacts the above clause *verbatim*.

ii. *By Servants of the South Sea Company.*

If any Officer or Servant of the said Company (1), being entrusted with any Note, Bill, Dividend Warrant, Bond, Deed, or any Security, Money, or other Effects, belonging to the said Company, or having any Bill, Dividend Warrant, Bond, Deed, or any Security, Money, or Effects of any other person or persons lodged or deposited with the said Company, or with him as an Officer or Servant of the said Company, shall secrete, embezzle, or run away with any such Note, Bill, Dividend Warrant, Bond, Deed, Security, Money, or Effects, or any part of them, every Officer or Servant so offending, and being thereof convicted in due form of Law, shall be deemed guilty of Felony, and shall suffer Death as a Felon, without benefit of clergy. 24 G. 2. c. 11. s. 3.

Officers or servants embezzling effects entrusted to them, guilty of felony, without clergy.

(1) Styled in the first section of the act "The Corporation of the Governor and Company of Merchants of Great Britain trading to the South Seas."

- iii. *Embezzlement of Money, or Securities for Money, belonging to the Public by any Banker, Broker, Agent, Collector, &c. entrusted with the Deposit, &c. or the Receipt, &c. thereof.*

Public officers
embezzling
money issued for
public services,
shall be guilty of
a misdemeanor,
and shall be liable
to be transported.

The Statute 50 G. 3. c. 59. intituled "An Act for more effectually preventing Embezzlement of Money or Securities for Money belonging to the Public, by any Collector, Receiver, or other Person entrusted with the Receipt, Care or Management thereof;" recites that "it is most expedient that due provision should be made more effectually to prevent the Embezzlement of Money or Securities for Money belonging to the Public, by any Collector, Receiver, or other Officer entrusted with the receipt, custody or management thereof;" and then enacts, that if any person or persons to whom any Money or Securities for Money shall be issued for Public Services, shall from and after the passing of this Act embezzle such Money, or in any manner fraudulently apply the same to his own use or benefit, or for any purpose whatever except for Public Services, every such person so offending, and being thereof duly convicted according to Law, in any Part of the United Kingdom, shall be adjudged guilty of a Misdemeanor, and shall be sentenced to be transported beyond the Sea, or to receive such other Punishment as may by Law be inflicted on persons guilty of Misdemeanors, and as the Court before which such offenders may be tried and convicted shall adjudge.

Such persons
furnishing false
statements of
money entrusted
to their care,
shall be guilty of
a misdemeanor,
and may be fined
and imprisoned.

If any such Officer, Collector, or Receiver so entrusted with the receipt, custody, or management of any part of the Public Revenues, shall knowingly furnish false Statements or Returns of the sums of Money collected by him, or entrusted to his care, or of the Balances of Money in his hands or under his controul, such Officer, Collector, or Receiver so offending, and being thereof convicted, shall be adjudged guilty of a Misdemeanor, and shall be adjudged to suffer the Punishment of Fine and Imprisonment, at the discretion of the Court, and be rendered for ever incapable of holding or enjoying any Office under the Crown. s. 2.

The Statute 52 G. 3. c. 63. intituled "An Act for more effectually preventing the Embezzlement of Securities for Money and other Effects, left or deposited for safe Custody, or other special purpose, in the Hands of Bankers, Merchants, Brokers, Attornies, or other Agents," recites, that it is expedient that due Provision should be made to prevent the Embezzlement of

Government and other Securities for Money, Plate, Jewels, and other Personal Effects, deposited for safe Custody, or for any special purpose, with Bankers, Merchants, Brokers, Attornies, and other Agents, entrusted by their Customers and Employers; and then enacts, that if any person or persons with whom (as Banker or Bankers, Merchant or Merchants, Broker or Brokers, Attorney or Attornies, or Agent or Agents of any description whatsoever) any Ordnance Debenture, Exchequer Bill, Navy Victualling or Transport Bill, or other Bill, Warrant or Order for the payment of Money, State Lottery Ticket or Certificate, Seaman's Ticket, Bank Receipt for payment of any Loan, India Bond or other Bond, or any Deed, Note, or other Security for Money, or for any Share or Interest in any National Stock or Fund of this or any other Country, or in the Stock or Fund of any Corporation, Company, or Society established by Act of Parliament or Royal Charter, or any Power of Attorney for the Sale or Transfer of any such Stock or Fund, or any Share or Interest therein, or any Plate, Jewels, or other Personal Effects, shall have been deposited, or shall be or remain for safe Custody, or upon or for any special Purpose, without any Authority, either general, special, conditional, or discretionary, to sell or pledge such Debenture, Bill, Warrant, Order, State Lottery Ticket or Certificate, Seaman's Ticket, Bank Receipt, Bond, Deed, Note, or other Security, Plate, Jewels, or other Personal Effects, or to sell, transfer, or pledge the Stock or Fund, or Share or Interest in the Stock or Fund to which such Security or Power of Attorney shall relate, shall sell, negotiate, transfer, assign, pledge, embezzle, secrete, or in any manner apply to his or their own use or benefit, any such Debenture, Bill, Warrant, Order, State Lottery Ticket or Certificate, Seaman's Ticket, Bank Receipt, Bond, Deed, Note, or other Security, as herein-before mentioned, Plate, Jewels, or other Personal Effects, or the Stock or Fund, or Share or Interest in the Stock or Fund to which such Security or Power of Attorney shall relate, in violation of good faith, and contrary to the special purpose for which the things herein-before mentioned, or any or either of them, shall have been deposited, or shall have been or remained with or in the Hands of such person or persons, with intent to defraud the Owner or Owners of any such Instrument or Security, or the person or persons depositing the same, or the Owner or Owners of the Stock or Fund, Share or Interest, to which such Security or Power of Attorney shall relate, every person so offending in

Certain persons with whom, as banker, &c. or agent, &c. shares in stock, &c. or any deed, note, or other security for money, is entrusted, selling, assigning, pledging, transferring, embezzling, or securing the same, with intent to defraud the owner, declared guilty of a misdemeanor;

and may be
transported, &c.

any part of the United Kingdom of Great Britain and Ireland, shall be deemed and taken to be guilty of a Misdemeanor, and being thereof convicted according to Law, shall be sentenced to Transportation for any Term not exceeding Fourteen Years, or to receive such other Punishment as may by Law be inflicted on a person or persons guilty of a Misdemeanor, and as the Court before which such Offender or Offenders may be tried and convicted shall adjudge.

Bankers, &c.
disposing, for
their own use,
of such property
deposited with
them for special
purposes;

The second section recites that it is usual for persons having dealings with Bankers, Merchants, Brokers, Attornies, and other Agents, to deposit or place in the Hands of such Bankers, Merchants, Brokers, Attornies, and other Agents, Sums of Money, Bills, Notes, Drafts, Cheques, or Orders for the payment of Money, with Directions or Orders to invest the Monies so paid, or to which such Bills, Notes, Drafts, Cheques or Orders relate, or part thereof, in the purchase of Stocks or Funds, or in or upon Government or other Securities for Money, or to apply and dispose thereof in other ways, or for other purposes; and that it is expedient to prevent Embezzlement and Malversation in such Cases also; and then enacts, that if any such Banker, Merchant, Broker, Attorney, or other Agent, in whose Hands any Sum or Sums of Money, Bill, Note, Draft, Cheque, or Order for the payment of any Sum or Sums of Money shall be placed, with any Order or Orders in Writing, and signed by the Party or Parties who shall so deposit or place the same, to invest such Sum or Sums of Money, or the Money to which such Bill, Note, Draft, Cheque, or Order as aforesaid, shall relate, in the purchase of any Stock or Fund, or in or upon Government or other Securities, or in any other way or for any other Purpose specified in such Order or Orders, shall in any manner apply to his or their own use and benefit, any such Sum or Sums of Money, or any such Bill, Note, Draft, Cheque, or Order for the payment of any Sum or Sums of Money as herein-before mentioned, in violation of good faith, and contrary to the special Purpose specified in the Direction or Order in Writing herein-before mentioned, with intent to defraud the Owner or Owners of any such Sum or Sums of Money, or Order for the payment of any Sum or Sums of Money; every person so offending in any part of the United Kingdom, shall in like manner be deemed and taken to be guilty of a Misdemeanor, and being convicted thereof according to Law, shall incur and suffer such Punishment as is herein-before mentioned.

declared guilty
of a misde-
meanor, is
punishable in
like manner.

Provided always, that nothing herein contained shall extend, or be construed to extend, to prevent any of the persons herein-before mentioned from receiving any Money which shall be or become actually due and payable upon or by virtue of any of the Instruments or Securities herein-before mentioned, according to the tenor and effect thereof, in such manner as he or they might have done, if this Act had not been made. 52 G. 3. c. 63. s. 3.

This act not to prevent persons receiving money due on securities ;

Provided also, that the Penalty by this Act annexed to the commission of any Offence intended to be guarded against by this Act, shall not extend, or be construed to extend, to any Partner or Partners, or other person or persons of or belonging to any Partnership, Society, or Firm, except only such Partner or Partners, person or persons, as shall actually commit or be accessory or privy to the commission of such Offence; any thing herein contained to the contrary in anywise notwithstanding. s. 4.

nor to partners not being privy to the offence ;

Provided also, that nothing in this Act contained, nor any Proceeding, Conviction, or Judgment to be had or taken thereupon, shall hinder, prevent, lessen, or impeach any Remedy at Law or in Equity, which any party or parties aggrieved by any Offence against this Act might or would have had, or have been entitled to if this Act had not been made, nor any Proceeding, Conviction, or Judgment had been had or taken thereupon; but nevertheless the Conviction of any Offender against this Act shall not be received in Evidence in any Action at Law, or Suit in Equity, against such Offender; and further, that no person shall be liable to be convicted by any evidence whatever, as an Offender against this Act, in respect of any act, matter, or thing done by him, if he shall at any time previously to his being indicted for such Offence, have disclosed such act, matter, or thing, on Oath, under or in consequence of any compulsory Process of any Court of Law or Equity, in any Action, Suit, or Proceeding, in or to which he shall have been a party, and which shall have been bonâ fide instituted by the party aggrieved by the act, matter, or thing, which shall have been committed by such Offender aforesaid. s. 5.

nor to hinder any remedy at law or equity regarding the party aggrieved.

Persons shall not be convicted under this act, if they have disclosed their offence on oath by compulsory process.

Provided always, and it is hereby expressly enacted and declared, that nothing in this Act contained shall extend to or affect any person or persons being a Trustee or Trustees in or under any Marriage Settlement, Will, or other Deed or Instrument, or being a Mortgagee or Mortgagees of any Property whatsoever, whether Real or Personal, in respect of any act or acts done by any such person or persons in relation to

This act not to affect trustees or mortgagees.

and may be
transported, &c.

any part of the United Kingdom of Great Britain and Ireland, shall be deemed and taken to be guilty of a Misdemeanor, and being thereof convicted according to Law, shall be sentenced to Transportation for any Term not exceeding Fourteen Years, or to receive such other Punishment as may by Law be inflicted on a person or persons guilty of a Misdemeanor, and as the Court before which such Offender or Offenders may be tried and convicted shall adjudge.

Bankers, &c.
disposing, for
their own use,
of such property
deposited with
them for special
purposes;

The second section recites that it is usual for persons having dealings with Bankers, Merchants, Brokers, Attornies, and other Agents, to deposit or place in the Hands of such Bankers, Merchants, Brokers, Attornies, and other Agents, Sums of Money, Bills, Notes, Drafts, Cheques, or Orders for the payment of Money, with Directions or Orders to invest the Monies so paid, or to which such Bills, Notes, Drafts, Cheques or Orders relate, or part thereof, in the purchase of Stocks or Funds, or in or upon Government or other Securities for Money, or to apply and dispose thereof in other ways, or for other purposes; and that it is expedient to prevent Embezzlement and Malversation in such Cases also; and then enacts, that if any such Banker, Merchant, Broker, Attorney, or other Agent, in whose Hands any Sum or Sums of Money, Bill, Note, Draft, Cheque, or Order for the payment of any Sum or Sums of Money shall be placed, with any Order or Orders in Writing, and signed by the Party or Parties who shall so deposit or place the same, to invest such Sum or Sums of Money, or the Money to which such Bill, Note, Draft, Cheque, or Order as aforesaid, shall relate, in the purchase of any Stock or Fund, or in or upon Government or other Securities, or in any other way or for any other Purpose specified in such Order or Orders, shall in any manner apply to his or their own use and benefit, any such Sum or Sums of Money, or any such Bill, Note, Draft, Cheque, or Order for the payment of any Sum or Sums of Money as herein-before mentioned, in violation of good faith, and contrary to the special Purpose specified in the Direction or Order in Writing herein-before mentioned, with intent to defraud the Owner or Owners of any such Sum or Sums of Money, or Order for the payment of any Sum or Sums of Money; every person so offending in any part of the United Kingdom, shall in like manner be deemed and taken to be guilty of a Misdemeanor, and being convicted thereof according to Law, shall incur and suffer such Punishment as is herein-before mentioned.

declared guilty
of a misde-
meanor, is
punishable in
like manner.

Provided always, that nothing herein contained shall extend, or be construed to extend, to prevent any of the persons herein-before mentioned from receiving any Money which shall be or become actually due and payable upon or by virtue of any of the Instruments or Securities herein-before mentioned, according to the tenor and effect thereof, in such manner as he or they might have done, if this Act had not been made. 52 G. 3. c. 63. s. 3.

This act not to prevent persons receiving money due on securities ;

Provided also, that the Penalty by this Act annexed to the commission of any Offence intended to be guarded against by this Act, shall not extend, or be construed to extend, to any Partner or Partners, or other person or persons of or belonging to any Partnership, Society, or Firm, except only such Partner or Partners, person or persons, as shall actually commit or be accessory or privy to the commission of such Offence; any thing herein contained to the contrary in anywise notwithstanding. s. 4.

nor to partners not being privy to the offence ;

Provided also, that nothing in this Act contained, nor any Proceeding, Conviction, or Judgment to be had or taken thereupon, shall hinder, prevent, lessen, or impeach any Remedy at Law or in Equity, which any party or parties aggrieved by any Offence against this Act might or would have had, or have been entitled to if this Act had not been made, nor any Proceeding, Conviction, or Judgment had been had or taken thereupon; but nevertheless the Conviction of any Offender against this Act shall not be received in Evidence in any Action at Law, or Suit in Equity, against such Offender; and further, that no person shall be liable to be convicted by any evidence whatever, as an Offender against this Act, in respect of any act, matter, or thing done by him, if he shall at any time previously to his being indicted for such Offence, have disclosed such act, matter, or thing, on Oath, under or in consequence of any compulsory Process of any Court of Law or Equity, in any Action, Suit, or Proceeding, in or to which he shall have been a party, and which shall have been bonâ fide instituted by the party aggrieved by the act, matter, or thing, which shall have been committed by such Offender aforesaid. s. 5.

nor to hinder any remedy at law or equity regarding the party aggrieved.

Persons shall not be convicted under this act, if they have disclosed their offence on oath by compulsory process.

Provided always, and it is hereby expressly enacted and declared, that nothing in this Act contained shall extend to or affect any person or persons being a Trustee or Trustees in or under any Marriage Settlement, Will, or other Deed or Instrument, or being a Mortgagee or Mortgagees of any Property whatsoever, whether Real or Personal, in respect of any act or acts done by any such person or persons in relation to

This act not to affect trustees or mortgagees.

the Property comprised in or affected by any such Trust or Mortgage as aforesaid. 52 G. 3. c. 63. s. 6.

Persons committing offences in Scotland, how to be punished.

Provided always, that every person who shall commit, in Scotland, any Offence against this Act, which by the Provisions thereof is constituted a Misdemeanor, shall be liable to be punished by Fine and Imprisonment, or by either of them, or by Transportation for any term not exceeding Fourteen Years, as the Judge or Judges before whom such Offender shall be tried and convicted may direct. s. 7.

This act not to restrain bankers, &c. from disposing of securities on which they have a lien.

Provided always, that nothing herein contained shall extend to restrain any Banker, Merchant, Broker, Attorney, or other Agent, from selling, negotiating, transferring, or otherwise disposing of any Securities, Property, or other Effects as aforesaid, in their Custody or Possession, upon which they shall have any Lien, Claim, or Demand, which by Law entitles them to sell or dispose thereof, unless such Sale, Transfer, or other Disposal shall extend to a greater number or to a greater part of such Securities, Property, or other Effects as aforesaid, than shall be requisite or necessary for the purpose of paying or satisfying such Lien, Claim, or Demand; any thing hereinbefore contained to the contrary thereof in anywise notwithstanding. s. 8.

XX. iv. Embezzlement and Larceny by persons employed in the Post Office.

Persons employed in the post office embezzling, &c. any letter containing certain enumerated securities for money, shall suffer death.

If any Deputy, Clerk, Agent, Letter Carrier, or other Officer whatsoever, appointed or to be hereafter appointed, and employed in the Business of the Post Office, shall, from and after 10th October 1765, secrete, embezzle, or destroy any Letter, Packet, Bag, or Mail of Letters, which he, she, or they shall and may be respectively entrusted with, or which shall have come to his, her, or their hands or possession by virtue of their respective employments in the said Post Office, containing any Bank Note, Bank Post Bill, Bill of Exchange, Exchequer Bill, South Sea or East India Bond, Dividend Warrant of the Bank, South Sea, East India, or any other Company, Society, or Corporation, Navy or Victualling Bill, Seaman's Ticket, State Lottery Ticket, Goldsmith's Note for the Payment of Money, or other Bond or Warrant, Bill, or Promissory Note for the Payment of Money, or American Provincial Bill of Credit, or shall steal and take out of any Letter or Packet that shall come to his, her, or their hands or possession by virtue of their respective employments, any such Bank Note, Bank Post Bill, Bill of Exchange, Exchequer Bill, South Sea

or East India Bond, Dividend Warrant of the Bank, South Sea, East India, or any other Company, Society, or Corporation, Navy or Victualling Bill, Seaman's Ticket, State Lottery Ticket, Goldsmith's Note for the Payment of Money, or other Bond, or Warrant, or Promissory Note for the Payment of Money, or American Provincial Bill of Credit, with intent to secrete, embezzle, or destroy the same; every such Offender or Offenders, being thereof convicted in due form of Law, shall be deemed guilty of Felony, and shall suffer Death as a Felon. 5 G. 3. c. 25. s. 17. (1)

If any Deputy, Clerk, Agent, Letter Carrier, or other Servant appointed, authorised, and intrusted to take in Letters or Packets, and receive the Postage thereof, shall, after the said 10th October, embezzle or apply to his, her, or their own use any Money or Monies by him, her, or them received with such Letters or Packets for the Postage thereof, or shall burn or otherwise destroy any Letter or Letters, Packet or Packets, by him, her, or them so taken in or received, or who by virtue of their respective Offices shall advance the Rates upon Letters or Packets sent by the Post, and shall not duly account for the Money by him, her, or them received for such advanced Postage; every such Offender or Offenders, being thereof convicted as aforesaid, shall be deemed guilty of Felony. s. 19. See 7 G. 3. c. 50. s. 3. post, p 501.

Persons embezzling, &c. postage money, guilty of felony.

The Statute 7 G. 3. c. 50. s. 1. (2) (which appears only to reenact more largely the provisions of 5 G. 3. c. 25. s. 17.); which see ante, (and which is intituled "An Act for amending certain Laws relating to the Revenue of the Post Office,") recites, that it is of the utmost importance to the Trade and Commerce of these Kingdoms, that all Letters, Packets, Bank Notes, Bills of Exchange, and other things, might be sent and conveyed by the Post with the greatest safety and security; and that it had been found necessary that some further regulations and provisions should be made for that purpose, and then enacts, that if any Deputy, Clerk, Agent, Letter Carrier, Post-boy, or Rider, or any other Officer or person whatsoever, employed or to be hereafter employed in receiving, stamping, sorting, charging, carrying, conveying, or delivering Letters or Packets, or in any other business relating to the Post Office, shall from and after 1st Nov. 1767 secrete, embezzle, or destroy any Letter or Letters, Packet or Packets, Bag or Mail of Letters which he,

Clerks, &c. in the post office embezzling or destroying any letter, &c. containing any bank note, &c.;

(1) } See the Statute 52 G. 3. c. 143. post, p. 503, which virtually
(2) } repeals these Statutes.

or stealing the
same out of any
letter;

shall be guilty of
felony, without
clergy.

Clerks, &c. de-
stroying letters,
or receiving an
advanced or pro-
per postage
thereon, and not
accounting for
the money, shall
be guilty of
felony.

he, or they shall and may be respectively entrusted with, or which shall have come to his, her, or their hands or possession, containing any Bank Note, Bank Post Bill, Bill of Exchange, Exchequer Bill, South Sea or East India Bond, Dividend Warrant of the Bank, South Sea, East Indies, or any other Company, Society, or Corporation, Navy or Victualling or Transport Bill, Ordnance Debenture, Seaman's Ticket, State Lottery Ticket, or Certificate, Bank Receipt for payment on any Loan, Note of Assignment of Stock in the Funds, Letter of Attorney for receiving Annuities or Dividends, or for selling Stock in the Funds, or belonging to any Company, Society, or Corporation, American Provincial Bill of Credit, Goldsmith's or Banker's Letter of Credit, or Note for or relating to the payment of Money, or other Bond or Warrant, Draught, Bill, or Promissory Note whatsoever, for the Payment of Money; or shall steal and take out of any Letter or Packet that shall come to his, her, or their hands or possession any such Bank Note, Bank Post Bill, Bill of Exchange, Exchequer Bill, South Sea or East India Bond, Dividend Warrant of the Bank, South Sea, East India, or any other Company, Society, or Corporation, Navy or Victualling or Transport Bill, Ordnance Debenture, Seaman's Ticket, State Lottery Ticket or Certificate, Bank Receipt for payment on any Loan, Note of Assignment of Stock in the Funds, Letter of Attorney for receiving Annuities or Dividends, or for selling Stock in the Funds, or belonging to any Company, Society, or Corporation, American Provincial Bill of Credit, Goldsmith's or Banker's Letter of Credit, or Note for or relating to the payment of Money, or other Bond or Warrant, Draft, Bill, or Promissory Note whatsoever, for the Payment of Money; every such offender or offenders, being thereof convicted in due form of Law, shall be deemed guilty of Felony, and shall suffer Death as a Felon, without benefit of Clergy.

If any Deputy, Clerk, Agent, Letter Carrier, Officer or other person whatsoever, employed or hereafter to be employed in any business relating to the Post Office, shall take and receive into his, her, or their hands or possession any Letter or Letters, Packet or Packets, to be forwarded by the Post, and receive any sum or sums of Money therewith for the postage thereof, shall after 1 Nov. 1767, burn or otherwise destroy any Letter or Letters, Packet or Packets, by him, her, or them so taken in or received; or if any such Deputy, Clerk, Agent, Letter Carrier, Officer, or other person whatsoever, so employed or hereafter to be so employed, shall advance the rate or rates of postage upon

any Letter or Letters, Packet or Packets, sent by the Post, and shall secrete and not duly account for the Money by him, her, or them received for such advanced postage; every such offender or offenders, being thereof convicted as aforesaid (1) shall be deemed guilty of felony (2). 7 G. 3. c. 50. s. 3.

The Statute 42 G. 3. c. 81. (3) intituled "An Act for amending so much of an Act [7 G. 3. c. 50.] as relates to the secreting, embezzling, or destroying any Letter or Packet sent by the Post," recites s. 1. of the said Act, and that it is expedient to extend the provisions of the said Act so as to protect the conveyance by the Post of all and every part or parts of any such Securities or Instruments as aforesaid; and then enacts, (s. 1.) that if any Deputy, Clerk, Agent, Letter Carrier, Post Boy, or Rider, or any other Officer or person whatsoever, employed or to be hereafter employed in receiving, stamping, sorting, charging, carrying, conveying, or delivering Letters or Packets, or in any other business relating to the Post Office, shall, from and after the passing of this Act, secrete, embezzle, or destroy any Letter or Letters, Packet or Packets, Bag or Mail of Letters, which he, she, or they shall and may be respectively entrusted with, or which shall come to his, her, or their hands or possession, containing any part or parts of any such Security or Instrument as in the said recited Act are described or mentioned, or shall steal or take out of any Letter or Packet that shall come to his, her, or their hands or possession any part or parts of any such Security or Instrument; every such offender or offenders, being thereof convicted in due form of Law, shall be deemed guilty of Felony, and shall suffer Death as a Felon, without benefit of clergy.

Persons employed in any business relating to the post office secreting or embezzling, &c. any letter, &c. containing any part of any security, &c. mentioned in 7 G. 3. c. 50, or stealing same out of any letter, &c. ousted of clergy.

From and after the passing of this Act, if any person whatsoever, whether employed in any business relating to the Post Office or not, shall counsel, command, hire, persuade, procure, aid, or abet any such Deputy, Clerk, Agent, Letter Carrier, Post Boy, or Rider, or any other Officer or person whatsoever employed or to be hereafter employed in receiving, stamping, sorting, charging, carrying, conveying, or delivering Letters or Packets, or in any other business relating to the Post Office, to commit any felony or offence in the said in part recited Act or

Aiders in such offences,

(1) *In due form of Law.* See s. 1. ante.

(2) Mr. East observes upon this section, that it varies very materially from s. 19. of 5 G. 3. c. 25. though it does not profess to repeal it. East, P. C. 583.

(3) See note, p. 499.

and buyers and receivers of such securities so stolen;

ousted of clergy.

in this Act before mentioned, or shall, with a fraudulent intention, buy or receive the whole or any part or parts of any such Security or Instrument as aforesaid, which at the time of buying or receiving thereof he shall know to have been contained in any such Letter or Letters, Packet or Packets, so by any Deputy, Clerk, Agent, Letter Carrier, Post Boy, or Rider, or any other Officer or person whatsoever, employed or to be hereafter employed in receiving, stamping, sorting, charging, carrying, conveying, or delivering Letters or Packets, or in any other business relating to the Post Office, secreted or embezzled, or stolen or taken out of any Letter or Letters, Packet or Packets, that shall come to his, her, or their hands or possession, or which he, she, or they, at the time of buying or receiving thereof, shall know to have been contained in and stolen or unlawfully taken out of any Letter or Letters, Packet or Packets, stolen and taken by any person or persons whatsoever from or out of any Mail or Mails, Bag or Bags of Letters, sent and conveyed by the Post, or from or out of any Post Office, or House or Place for the receipt or delivery of Letters or Packets sent or to be sent by the Post; each and every person so offending in any of the ways last before mentioned, being thereof convicted, shall be deemed guilty of Felony, and shall suffer Death as a Felon, without benefit of clergy; and shall and may be tried, convicted, and attainted of such Felony as well before as after the trial or conviction of the principal Felon, and whether the said principal Felon shall have been apprehended, or shall be amenable to justice or not.

42 G. 3. c. 81. s. 2.

Persons secret-
ing or refusing
to deliver up
bags, &c. of
letters found,
picked up, or
left by mistake,
guilty of a mis-
demeanor, and
punishable by
fine and impri-
sonment.

The fourth section recites that "it frequently happens that Bags or Mails of Letters sent and conveyed by the Post, which may have been stolen or accidentally lost, and afterwards found or picked up, are wilfully detained by the persons finding the same, in the expectation of gain or reward, to the great inconvenience of divers of his Majesty's Subjects and the prejudice of Commerce;" to remedy, therefore, the said evil, it enacts, that from and after the passing of this Act, if any person or persons shall wilfully secrete, keep, or detain, on being required to deliver up by any Deputy, Clerk, Agent, Letter Carrier, Post Boy, Rider, Driver, or Guard of any Mail Coach, or any other Officer or person whatsoever, employed or to be employed in any business relating to the Post Office, shall refuse or wilfully neglect to deliver up any Mail or Bag of Letters, sent or conveyed, or made up in order to be sent or conveyed by the Post, or any Letter or Letters, Packet or Packets, sent or conveyed by the Post, or put for that purpose into any Post Office, or House or

Place for the receipt or delivery of Letters or Packets sent or to be sent by the Post, and which Letter or Letters, Packet or Packets, Bag or Mail of Letters, shall have been found or picked up by the same or any other person or persons, or shall by or through accident or mistake have been left with or at the house of the same, or any other person or persons, each and every person and persons so offending shall be deemed and taken to be guilty of a Misdemeanor, to be punished by Fine and Imprisonment.

By s. 5. (reciting 9 Ann. c. 10. prohibiting the sending of Letters and Packets otherwise than by the Post) persons sending, &c. any Letters or Packets, &c. otherwise than by the Post, shall forfeit for every offence £5, to be recovered by action of debt, &c.

Exception by s. 6. in favour of Letters concerning Goods, Letters of Merchants, &c. Commissions, &c. or any Proceedings out of any Court, or Letters, &c. sent by private friends, or a special messenger.

The Statute 52 G. 3. c. 143. which is intituled "An Act for amending and reducing into one Act the provisions contained in any Laws now in force imposing the penalty of Death for any act done in breach of, or in resistance to any part of the Laws for collecting his Majesty's Revenue in Great Britain," recites, that it is expedient that the provisions contained in any Laws now in force for collecting his Majesty's Revenue in Great Britain, whereby the penalty of Death is imposed for any act done in breach of or in resistance to the said laws, or any of them, should be amended and reduced into one Act; and then enacts, that in all cases where any act to be done or committed after the passing of this Act, in breach of or in resistance to any part of the laws for collecting his Majesty's Revenue in Great Britain, would by the laws now in force subject the offender to suffer Death, as guilty of Felony, without benefit of Clergy, by virtue of the said laws, or any of them, such act, so to be done or committed, shall be deemed and taken to be Felony with benefit of Clergy, and punishable only as such, unless the same shall also be declared to be Felony without benefit of Clergy by this Act.

Offences against
revenue laws,
how punishable.

By s. 2. it is *declared* and enacted, that if any Deputy, Clerk, Agent, Letter Carrier, Post Boy, or Rider, or any other Officer or person whatsoever employed by or under the Post Office of Great Britain, in receiving, stamping, sorting, charging, carrying, conveying, or delivering Letters or Packets, or in any other

Offences of persons employed
by the post office
how to be punished.

business relating to the said Office, shall, after the passing of this Act, secrete, embezzle, or destroy any Letter or Packet, or Bag or Mail of Letters, with which he or she shall have been entrusted in consequence of such Employment, or which shall in any other manner have come to his or her hands or possession, whilst so employed, containing the whole or any part or parts of any Bank Note, Bank Post Bill, Bill of Exchange, Exchequer Bill, South Sea or East India Bond, Dividend Warrant, either of the Bank, South Sea, East India, or any other Company, Society, or Corporation, Navy or Victualling or Transport Bill, Ordnance Debenture, Seaman's Ticket, State Lottery Ticket or Certificate, Bank Receipt for Payment on any Loan, Note of Assignment of Stock in the Funds, Letter of Attorney for receiving Annuities or Dividends, or for selling Stock in the Funds, or belonging to any Company, Society, or Corporation, American Provincial Bill of Credit, Goldsmith's or Banker's Letter of Credit, or Note for or relating to the Payment of Money, or other Bond or Warrant, Draught, Bill, or Promissory Note whatsoever for the Payment of Money; or shall steal and take out of any Letter or Packet with which he or she shall have been so entrusted, or which shall have so come to his or her hands or possession, the whole or any part or parts of any such Bank Note, Bank Post Bill, Bill of Exchange, Exchequer Bill, South Sea or East India Bond, Dividend Warrant, either of the Bank, South Sea, East India, or any other Company, Society, or Corporation, Navy or Victualling or Transport Bill, Ordnance Debenture, Seaman's Ticket, State Lottery Ticket or Certificate, Bank Receipt for payment of any Loan, Note of Assignment of Stock in the Funds, Letter of Attorney for receiving Annuities or Dividends, or for selling Stock in the Funds, or belonging to any Company, Society, or Corporation, American Provincial Bill of Credit, Goldsmith's or Banker's Letter of Credit, or Note for or relating to the Payment of Money, or other Bond or Warrant, Draught, Bill, or Promissory Note whatsoever for the Payment of Money; every person so offending, being thereof convicted, shall be adjudged guilty of Felony, and shall suffer Death as a Felon, without Benefit of Clergy.

Accessories
before the fact,
ousted of clergy;

If any person shall after the passing of this Act counsel, command, hire, persuade, procure, aid or abet any such Deputy, Clerk, Agent, Letter Carrier, Post Boy, or Rider, or any Officer or person whatsoever, employed by or under the said Office, in receiving, stamping, sorting, charging, carrying, conveying, or delivering Letters or Packets, or in any other business relating to the said Office, to commit any of the offences herein-before

mentioned, or shall, with a fraudulent intention, buy or receive the whole or any part or parts of any such Security or Instrument, as herein-before described, which shall have been contained in, and which, at the time of buying or receiving thereof, he or she shall know to have been contained in any such Letter or Packet so secreted, embezzled, stolen or taken by any Deputy, Clerk, Agent, Letter Carrier, Post Boy, or Rider, or any other Officer or person so employed as aforesaid, or which such person, so buying or receiving as aforesaid, shall, at the Time of buying or receiving thereof, know to have been contained in and stolen and taken out of any Letter or Packet stolen and taken from or out of any Mail or Bag of Letters sent and conveyed by such Post, or from or out of any Post Office or House, or Place for the Receipt or Delivery of Letters or Packets, or Bags or Mails of Letters sent or to be sent by such Post; every person so offending, and being thereof convicted, shall be adjudged guilty of Felony, and shall suffer Death as a Felon, without benefit of Clergy, and shall and may be tried, convicted and attainted of such Felony, as well before as after the Trial or Conviction of the principal Felon, and whether the said principal Felon shall have been apprehended or shall be amenable to Justice or not. s. 4

and may be tried as well before as after the principal, and whether the principal be amenable to justice or not.

XX. v. *Embezzlement by Persons employed in Manufactures.*

The Statute 17 G. 3. c. 56. intituled "An Act for amending and rendering more effectual the several Laws now in being, for the more effectual preventing of Frauds and Abuses by persons employed in the Manufacture of Hats, and in the Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair, and silk Manufactures; and also for making Provisions to prevent Frauds by Journeymen Dyers;" recites, that by an Act [22 G. 2. c. 27.] (1) it was enacted, that if any person or persons whatsoever, who should be hired or employed to make any Felt or Hat, or to prepare or work up any Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair, or Silk Manufactures, or any Manufactures made up of Wool, Fur, Hemp, Flax, Cotton, Mohair or Silk, or of any of the said Materials mixed one with another, should, from and after 24th June 1749, purloin, embezzle, secrete, sell, pawn, ex-

(1) All the offences created by this act are cognizable summarily before a Justice of Peace out of Sessions, and are not therefore inserted in this collection.

change, or otherwise unlawfully dispose of, any of the Materials with which he, she, or they should be respectively intrusted, whether the same or any part thereof be or be not first wrought, made up, manufactured, or converted into Merchantable Wares, and should be thereof lawfully convicted, in manner therein mentioned, before any one or more Justice or Justices of the Peace of the County, Riding, Division, City, Liberty, Town, or place, where such Offence should be committed, or where the person or persons so charged should reside or inhabit, it should and might be lawful to and for the said Justice or Justices, by Warrant under his or their Hand and Seal or Hands and Seals, to commit the person or persons so convicted to the House of Correction or other public Prison of such County, Riding, Division, City, Liberty, Town, or place, there to be kept to Hard Labour for the space of Fourteen Days, and also to order the person or persons so convicted to be Once publicly whipped at the Market-place, or some other public place, of the City, Town, or place where such Offender or Offenders should be respectively committed; and in case of a further Conviction, in manner before prescribed by the said Act, for or upon a Second or other subsequent Offence of the same kind, it should and might be lawful to and for the Justice or Justices before whom such Conviction should be had, to commit the person or persons so again offending to the House of Correction or other public prison as aforesaid, there to be kept to Hard Labour for any time not exceeding Three Months, nor less than One Month, and also to order the person or persons so again offending to be publicly whipped at the Market-place, or some other public place of the City, Town, or place where such Offender or Offenders should be respectively committed, Twice or oftener, as to such Justice or Justices should appear reasonable; and that it is thought necessary to vary the Punishment for the Offences herein-before recited; and then enacts, that from and after the 1st July 1777, so much of the said recited Act as prescribes what the Punishment shall be in any of the cases before mentioned, or before whom such Conviction shall be had, whether for a First Offence, or a Second, or any subsequent Offence, shall be repealed; and instead of inflicting the Punishment so directed, the Justices of the Peace before whom the Conviction shall be, shall commit the person convicted to the House of Correction or other public Prison, there to be kept to Hard Labour, in the case of a First Offence, for any time not less than Fourteen Days, nor more than Three

So much of the said act as prescribes the punishment to be inflicted for embezzling, pawning, etc. of materials, is hereby repealed; and other punishments substituted instead thereof.

Months; and in the case of a Second or any subsequent Offence, for any time not less than Three Months, nor more than Six Months; and may likewise for the First or for any subsequent Offence order the person convicted to be Once publicly whipped, if such additional Punishment shall by the said Justice or Justices be deemed proper. s. 1.

Provided always, that no person or persons who shall be charged with any Offence or Offences against the said recited Act of the Twenty-second Year of the Reign of his late Majesty King George the Second, shall be liable to be convicted, unless before Two or more Justices of the Peace for the County, Riding, Division, City, Liberty, Town, or Place, where the Offence shall be committed; any thing contained in the said recited Act to the contrary hereof notwithstanding. s. 2.

No person shall be convicted, unless before two Justices, etc.

The third section recites that by the said Act [of 22 G. 2.] it was also enacted, that if any person or persons should buy, receive, accept, or take, by way of Gift, Pawn, Pledge, Sale, or Exchange, or in any other manner whatsoever, of or from any person or persons hired or employed to make any Felt or Hat, or to prepare or work up the Woollen, Linen, Fustian, Cotton, Iron, Leather, Fur, Hemp, Flax, Mohair, or Silk Manufactures, or any Manufactures made up of Wool, Fur, Hemp, Flax, Cotton, Mohair, or Silk, or of any of the said Materials mixed one with another, any Thrumbs or Ends of Yarn, or any other Materials of Wool, Fur, Hemp, Flax, Cotton, or Iron, or any Leather, Mohair, or Silk, whether the same or any part thereof be or be not first wrought, made up, or manufactured, knowing the person or persons of whom he, she, or they so buy, receive, accept, or take the said Materials, to be so hired or employed as aforesaid, and not having first obtained the consent of the person or persons so hiring or employing him, her, or them, who should offer to sell, pawn, pledge, exchange, or otherwise dispose of the said Materials; or should buy, receive, accept, or take, in any manner whatsoever, of or from any other person or persons whomsoever, any of the said Materials, whether the same be or be not first wrought, made up, or manufactured, knowing the same to be so purloined or embezzled; then, and in every such case, the person or persons so buying, receiving, accepting, or taking any such Materials, being thereof lawfully convicted, in manner before prescribed by the said Act for the Conviction of persons purloining or embezzling the said Materials, should, for the First Offence, forfeit the Sum of Twenty Pounds; and in case the said Forfeiture should not be imme-

Recital of part of 22 G. 2. c. 27.

diately paid, the Justice or Justices before whom such Conviction should be had, should commit the Party or Parties so convicted to the House of Correction or other public Prison as aforesaid, there to be kept to Hard Labour for the space of Fourteen Days, unless the said Forfeiture should be sooner paid; and if within Two Days before the expiration of the said Fourteen Days the said Forfeiture should not be paid, the said Justice or Justices is and are thereby empowered and required to order the person or persons so convicted to be publicly whipped at the Market-place or some other public Place of the City, Town, or Place where such Offender or Offenders should be respectively committed, once or oftener, as to such Justice or Justices should appear reasonable; and in case of a further Conviction, for or upon a Second or any other subsequent Offence of the same kind, the person or persons so again offending, being thereof convicted in manner before prescribed by the said Act, should, for every Second or other subsequent Offence, forfeit the Sum of Forty Pounds; and in case the said Forfeiture should not be immediately paid, the Justice or Justices before whom such Conviction should be had, should commit the Party or Parties so convicted to the House of Correction or other public Prison as aforesaid, there to be kept to Hard Labour for any time not exceeding Three Months, nor less than One Month, unless the said Forfeiture should be sooner paid; and if within Seven Days before the expiration of the time for which such Offender or Offenders should be so committed, the said Forfeiture should not be paid, the said Justice or Justices is and are thereby empowered and required to order such Offender or Offenders to be publicly whipped at the Market-place or some other public Place of the City, Town, or Place, where he, she, or they should be respectively committed, twice or oftener, as to such Justice or Justices should appear reasonable; and the said respective Forfeitures of Twenty Pounds and Forty Pounds, when recovered, after satisfaction should have been made thereout to the Party or Parties injured, together with such Costs of Prosecution as should be judged reasonable by the Justice or Justices before whom such Conviction should have been had, should be equally distributed amongst the Poor of the Parish or Place where the person or persons so convicted should reside or inhabit: And whereas it is thought necessary to increase the pecuniary Penalties directed by the said recited Act for the said Offences last mentioned, and to vary the application of the said Penalties for the same, and further to change the conse-

quences of non-payment; and then enacts, that from and after the said first day of July 1777, so much of the said recited Act of the Twenty-second of his late Majesty King George the Second, as enacts what the Penalty or Punishment shall be for such buying, receiving, accepting, or taking, by way of Gift, Pawn, Pledge, Sale, or Exchange, or in any other manner, as is described by the said Act, in the Terms aforesaid, and how such Penalty shall be applied, and what Punishment shall be inflicted in case of non-payment, shall be repealed; and instead thereof the Penalty for the First Offence shall be any Sum not more than Forty Pounds, nor less than Twenty Pounds, as the Justices before whom the Conviction shall be shall judge to be most proper; and every such pecuniary Penalty shall be applied under the direction of the Justices before whom the Conviction shall be, in manner following; (that is to say), in the first place, the Expences of the Prosecution shall be thereout defrayed; and then such satisfaction shall be made thereout to the Party or Parties injured, as the said Justices shall think proper; and afterwards so much of the said Penalty shall be paid to the Informer or Informers as such Justices shall think fit, not exceeding in any Case Ten Pounds; and the remainder, if any, shall be paid and distributed to and amongst the Poor of the Parish, Town, or Place where the Conviction shall be, or for the use of such public Charity or Charities as such Justices shall appoint; and if such pecuniary Penalty as aforesaid shall not be paid on Conviction, the said Justices shall commit the person convicted to the House of Correction or other public Prison, there to be kept to Hard Labour for any time not more than Six Months, nor less than Three Months, as the said Justices shall think fit to direct, unless such pecuniary Penalty shall be sooner paid; or the said Justices may send the person convicted to the House of Correction or other public Prison, there to remain for Three Days, exclusive of the day of commitment, with an Order that within the said time the person so convicted shall be once publicly whipped at such Market-place, or other public Place as aforesaid. 17 G. 3. c. 56. s. 3.

So much of the said act as directs the punishment for buying, receiving, etc. of any goods in the last recited clause mentioned, repealed;

and other punishments substituted instead thereof.

From and after the said first day of July 1777, if any person or persons shall be brought before any Justices of the Peace, and shall be charged upon oath, or (being of the people called Quakers) upon solemn Affirmation, of having been guilty of buying, receiving, accepting, or taking, by way of Gift, Pawn, Pledge, Sale, or Exchange, or in any other manner, as is described by the said recited Act, in the terms aforesaid, and it

How Justices shall proceed when offenders are brought before them for a second offence.

Any such offender convicted before the Quarter Sessions shall forfeit from £50 to £100.

or be committed, etc.

Persons selling, pawning, etc. any such materials as aforesaid, knowing them to have been embezzled, shall be liable to the same punishment as for receiving embezzled materials.

shall appear to such Justices that the person or persons so charged hath or have been already convicted of the like offence for which he, she, or they is or are then charged, that then such Justices shall not proceed to convict such person or persons, but shall commit him, her, or them to the House of Correction, or some other public Prison; there to remain until the next General or General Quarter Sessions of the Peace, to be held in and for the County, Riding, Division, City, Liberty, Town, or place where the offence shall have been committed, or until such offender or offenders shall have entered into a recognizance to answer for such offence at the said next General or General Quarter Sessions; and the Justices in such General or General Quarter Sessions are hereby authorized and required to take cognizance thereof, and to hear and determine the same; and if such person shall be convicted upon the oath, or (being of the people called Quakers) upon the affirmation, of one or more credible witness or witnesses, the person so convicted shall forfeit and pay, for such offence, any sum not more than One hundred Pounds, nor less than Fifty Pounds, as the said Justices shall judge to be most proper; and every such penalty shall be applied and disposed of, under the direction of the said Justices in their General or General Quarter Sessions, in such manner and proportions as the penalty herein-before imposed for the first offence of the like nature is by this Act directed to be applied and disposed of; and if such penalty shall not be paid on Conviction, the said Justices shall commit the person so convicted to the House of Correction, or other public Prison, there to be kept to Hard Labour for any time not more than Six Months, nor less than Three Months, as the said Justices shall in their discretion think fit, unless such penalty shall be sooner paid; or the said Justices may send the person convicted to the House of Correction or other public Prison, there to remain for Three Days, exclusive of the day of Commitment, with an order that within the said time such person shall be once publicly whipped at such Market Place, or other public place as aforesaid. 17 G. c. 56. s. 4.

Section 5 recites that many frauds are practised, in respect to such Materials as aforesaid, by persons who sell them knowing them to have been purloined or embezzled; and enacts, that after the said first day of July 1777, if any person shall sell, pawn, pledge, exchange, or otherwise unlawfully dispose of, or offer to sell, pawn, pledge, exchange, or otherwise unlawfully dispose of, any such Materials as aforesaid, whether wrought or

unwrought, mixed or unmixed, knowing them to have been purloined or embezzled, every such person lawfully convicted, shall be liable to the same punishment as he or she would be liable to by virtue of this Act, on being convicted of receiving purloined or embezzled Materials, knowing them to have been purloined or embezzled.

The 6th section recites that such Materials as aforesaid, which have been purloined or embezzled, are frequently received by persons knowing the same to have been so purloined or embezzled; and such Materials being afterwards worked up, or otherwise disposed of, renders it difficult to convict such offenders; and enacts, that from and after the said first day of July 1777, when any person or persons shall be brought or charged upon oath, before any two or more Justices of the Peace, by virtue of this Act, with being suspected of or with having purloined or embezzled, or with having received any such Materials as aforesaid, whether the same be wrought or unwrought, mixed or unmixed, knowing the same to have been either purloined or embezzled, or received from some person or persons not entitled to dispose thereof, and it shall be made appear upon the oath, or (being of the people called Quakers) upon the affirmation, of one or more credible witness or witnesses, to the Satisfaction of such Justices, that such person or persons hath or have purloined or embezzled, or hath or have received any such Materials as aforesaid, knowing the same to have been purloined or embezzled, or received from some person or persons not entitled to dispose thereof, it shall and may be lawful for such Justices, or for the Justices at their General or General Quarter Sessions of the Peace, and they are hereby respectively authorized and empowered (if they shall think fit) to convict such person or persons of having purloined or embezzled, or of having received such Materials as aforesaid, knowing the same to have been purloined or embezzled, or received from some person or persons not entitled to dispose thereof, although no proof shall be given to whom such Materials belong; and the person or persons so convicted shall, for every such offence, be subject to such and the like penalties and punishments, at the discretion of such Justices respectively, as persons convicted of buying or receiving any such Materials as aforesaid, knowing the same to have been purloined or embezzled, are by this Act subject and liable to.

How Justices shall proceed in relation to persons charged on oath with being suspected of having embezzled such materials, or of having received the same, knowing them to have been embezzled, etc.

The seventh section recites, that by the said recited Act of the Twenty-second of King George the Second, it was also

Recital of a clause in 22 G. 2. c. 27.

enacted, that if any person or persons entrusted with any of the Materials therein and herein-before mentioned, in order to prepare, work up, or manufacture the same, should not use all such Materials in the preparing, working up, or manufacturing of the same, and should neglect or delay, for the space of Twenty-one Days after such Materials shall be prepared, worked up, or manufactured, to return (if required by the owner or owners of such Materials so to do) so much of the said Materials as should not be used as aforesaid, to the person or persons entrusting him, her, or them therewith, such neglect or delay should be deemed a purloining or embezzling of such Materials; and the person or persons so neglecting or delaying, being thereof convicted in manner therein-before prescribed for the conviction of offenders against the said Act, should suffer the like punishment as persons convicted of purloining or embezzling any of the Materials therein-before mentioned are by the said Act rendered subject and liable to: and that the space of Twenty-one Days, allowed by the said recited Act, is thought too long a time to be allowed for returning the said Materials, under the circumstances and in manner aforesaid; and that it may be proper to make the punishment for not returning such Materials the same as for purloining or embezzling under this Act; and then enacts, that from and after the said first day of July 1777, so much of the said recited Act as allows Twenty-one Days after the preparing, working up, or manufacturing the said Materials, for returning so much of the said Materials as shall not be used in such preparing, working up, or manufacturing, and declares that the punishment for not so returning the said Materials within the said time, shall be the same as under the said Act is directed for purloining or embezzling, shall be repealed; and only Eight Days shall be allowed for returning the said Materials in manner aforesaid; and the punishment for not returning them within the said Eight Days shall be the same as is by this Act directed to be inflicted for purloining or embezzling.

and altered.

Recital of
another clause
in recited act.

And whereas, by the said Act of the Twenty-second Year of the reign of his late Majesty King George the Second, it is enacted, that from and after the said Twenty-fourth Day of June 1749, if any person who should be hired, retained, or employed to prepare or work up any of the Manufactures therein-before mentioned for any one Master, should neglect or refuse the performance thereof, by procuring or permitting himself or herself to be subsequently retained or employed by any other Master or person whatsoever, before he or she should have

completed the Work which he or she was first and originally so hired, retained, or employed to perform, and which was first delivered to him or her; then, and in every such case, the person so offending, being thereof lawfully convicted by the oath, or (being of the people called Quakers) affirmation of one or more credible Witness or Witnesses, before one or more Justice or Justices of the Peace of the County, Riding, Division, City, Liberty, Town, or Place, where the offence or offences should be committed, should be sent to the House of Correction, there to be kept to hard labour for any time not exceeding One Month: and whereas the said provision contained in the said recited clause is not found sufficient for the purpose intended, and it is apprehended that some other provision, more proper, may be made; be it therefore further enacted, that from and after the said First Day of July 1777, the whole of the said last-recited clause shall be repealed; and that, from and after the said First Day of July 1777, if any person, being hired, retained, or employed to prepare or work up any Materials, whether mixed or unmixed, for any Master or Masters, shall wilfully neglect or refuse the performance thereof for Eight Days successively; or having taken in any Materials, whether mixed or unmixed, for manufacture, from one Master or two or more Masters being Co-partners, shall afterwards take in any Materials, whether mixed or unmixed, for manufacture, from any other Master or Masters; or shall procure, or permit himself or herself to be employed or retained in any other occupation or employment whatsoever, sooner than Eight Days before the completion of the Work first taken; then, in every such case, such person being thereof lawfully convicted by the oath, or (being of the people called Quakers) affirmation, of one or more credible Witness or Witnesses, before two or more Justices of the Peace of the County, Riding, Division, City, Liberty, Town, or Place where the offence or offences shall be committed, shall be sent to the House of Correction or other public Prison, there to be kept to hard labour for any time not exceeding Three Months nor less than One Month. 17 G. 3. c. 56. s. 8.

and repealed.

Any person being employed to work up materials, who shall neglect to perform the same for eight days, etc. shall be sent to the house of correction.

The ninth section recites that it frequently happens that persons receive the said Materials in fictitious names, in order to be manufactured; and that persons receive such Materials in their own names, in order to be manufactured by themselves, and afterwards deliver the same to others to be manufactured, without the knowledge or consent of the owners thereof; and that Carriers, or other persons employed to deliver Materials to

If any person shall receive any materials to be manufactured, in a fictitious name, or shall deliver the same to any other person, without the consent of the owner, &c., he

shall be liable to the same punishment as persons neglecting to perform their work, &c.

Workmen to be prepared or manufactured, do designedly deliver such Materials to other persons than those intended by the Owner of such Materials; and then enacts, that from and after the said first day of July 1777, if any person shall receive any of the aforesaid Materials in a fictitious name, in order to be manufactured; or if any person shall receive in his or her own name any of the said Materials, in order to be manufactured by himself or herself, and afterwards deliver the same, or any part thereof, to any other person to be manufactured (without the consent of the owner thereof); or if any Carrier, or other person employed to deliver any such Materials to any Workman, to be prepared or wrought up, shall designedly deliver the same to any other person than the person to whom such Materials were ordered or intended to be delivered by the owner thereof; all and every person and persons offending in any of the cases aforesaid, shall, for every such offence, be liable to prosecution in the same manner, and to the same punishment, as is by this Act directed in respect to persons taking in any of the said Materials in order to work up, and afterwards wilfully neglecting or refusing the performance of their Work for the space of time aforesaid.

The tenth Section recites, that it frequently happens that Materials used in the Manufactures before mentioned are found, or known to be concealed, in the possession of persons who have received the same, knowing them to be purloined or embezzled, or of persons known not to be entitled to dispose of the same; and whereas the discovery and Conviction of the Purloiners and Embezzlers, Buyers and Receivers, of such Materials, is full of difficulty, from the close and clandestine manner in which the Offence is committed; and there is still greater Difficulty in proving whose Property such Materials are; and it would tend to the discouragement and suppression of such Offences if the Discovery and Conviction of such Offenders were rendered more easy; and that by the said recited Act of the Twenty-second Year of his late Majesty King George the Second, Justices of the Peace, after Conviction of any Offender for purloining or embezzling the said Materials, or for buying or receiving the same, are authorized to grant Warrants for searching the Houses and other places of the persons so convicted, but no such authority is given before Conviction, nor in any other House or place except such as belongs to a person convicted; and enacts, that it shall and may be lawful for any Two Justices of the Peace of any County, Riding, Division,

Two Justices, on receiving complaint on oath

City, Liberty, Town, or place, upon complaint made to them, upon Oath, by any one credible person, or (being of the people called Quakers) upon solemn Affirmation, that there is cause to suspect that any such purloined or embezzled Materials, whether mixed or unmixed, wrought or unwrought, are concealed in any Dwelling House, Outhouse, Yard, Garden, or other place or places, by virtue of a Warrant under their Hands and Seals, to cause every such Dwelling House, Outhouse, Yard, Garden, or place, to be searched in the Day-time; and if any such Materials, suspected to be purloined or embezzled, shall be found therein; to cause the same, and the person or persons in whose House, Outhouse, Yard, Garden, or other place, the same shall be found, to be brought before any Two Justices of the Peace for the same County, Riding, Division, City, Liberty, Town, or Place; and if the said person or persons shall not give an account to the satisfaction of such Justices, how he, she, or they came by the same, then the said person or persons so offending shall be deemed and adjudged guilty of a Misdemeanor, and shall be punished in manner herein-after mentioned, although no Proof shall be given to whom such Materials belong.

that embezzled materials are suspected to be concealed in any house, &c. may grant a warrant for searching the same.

How persons shall be punished, in whose possession such materials shall be found.

Every Peace Officer, Constable, Headborough, or Tithingman, in every County, City, Town Corporate, or other place where there shall be Officers, and every Beadle within his Ward, Parish, or District, and every Watchman, during such time only as he is on his Duty, shall and may apprehend, or cause to be apprehended, all and every person or persons who may reasonably be suspected of having or carrying, or any ways conveying, at any time after Sun-setting and before Sun-rising, any of such Materials suspected to be purloined or embezzled, and the same, together with such person or persons, as soon as conveniently may be, convey or carry before any Two Justices of the Peace for the County, Riding, Division, City, Liberty, Town, or place, within which the suspected person or persons shall be apprehended; and if the person or persons so apprehended in conveying any such Materials, shall not produce the party or parties duly entitled to dispose thereof, from whom he, she, or they bought or received the same, or some other credible Witness, to testify upon Oath, or (being of the people called Quakers) upon solemn Affirmation, to the Sale or Delivery of the said Materials (which Oath or Affirmation respectively such Justices are hereby empowered to administer), or shall not give an account to the satisfaction of such

Peace officers, towns corporate, &c. may apprehend all persons suspected of having or carrying, after sunset, any materials suspected to be purloined, &c.

Justices, how he, she, or they came by the same, then the said person or persons so apprehended shall be deemed and adjudged guilty of a Misdemeanor, and be punished in manner hereinafter mentioned, although no Proof shall be given to whom such Materials belong. 17 G. 3. c. 56. s. 11.

Justices may, at the request of persons brought before them, appoint a reasonable time to produce the persons entitled to dispose of the materials, &c.;

Provided always, that in either of the two cases last before mentioned, when any person or persons, who shall be brought before any two Justices of the Peace, shall request of such Justices to appoint a reasonable time to produce the person or persons duly entitled to sell or dispose of the same, of or from whom he, she, or they bought or received the same, or some one or more credible witness or witnesses to prove the sale or delivery thereof; then and in such case it shall and may be lawful for the said Justices, and they are hereby authorized and required, to appoint such reasonable time as aforesaid, and to issue out a summons to the Constable or other Peace Officer of the Parish or Place where such person or persons, or such witness or witnesses, shall respectively reside, requiring him, her, or them, to appear before two or more Justices, at such time and place as shall be so appointed by such Justices, in order to be examined and give evidence on oath, or (being of the people called Quakers) solemn affirmation, of the several matters aforesaid; but such person or persons, at the time of making such request, shall enter into a recognizance with or without surety or sureties, as such Justices shall think proper, for his, her, or their appearance before them, at the time so to be set, or, for want of such recognizance as aforesaid, shall be committed until the time that shall be set or appointed by the said Justices for the appearance of such party or parties, witness or witnesses; and if at such appointed time such person or persons shall be convicted of any of the offences aforesaid, then and in such case, he, she, or they shall suffer such punishment as is herein-before directed to be inflicted on persons guilty of such offences. s. 12.

on the persons making such request entering into a recognizance, &c.

On any person being convicted of a misdemeanor as aforesaid, the materials so found shall be deposited in the hands of the churchwardens, &c.

Where any person or persons shall be convicted of a Misdemeanor in either of the two cases last before mentioned, it shall and may be lawful for the Justices before whom the Conviction shall be, to cause the said Materials so found or seized as aforesaid, to be deposited in the hands of the Churchwardens or Overseers of the Poor of the place where such Materials shall be found or seized, or in any other convenient place, for any time not exceeding Thirty Days; and in the mean time to order the said Churchwardens and Overseers of the Poor, or one of

them, to insert an advertisement in some one or more of the public Newspapers usually published or circulated in or near such place, or otherwise to cause notice to be given by some public crier, and by fixing on the Church or Chapel Door notice describing such Materials, and where the same are so deposited, to the end that persons having lost such Materials, or any reputable person or persons in their behalf, may come and claim the same: and in case any person or persons can prove his, her, or their property in the said Materials upon oath, or (being of the people called Quakers) upon his, her, or their solemn affirmation, to the satisfaction of any two Justices of the Peace for such County, Riding, Division, City, Liberty, Town, or Place, then such Justices shall order restitution of such Materials to the owner or owners thereof, after paying the reasonable charges of removing, depositing, and giving public notice of the same; but if, before the end of the said Thirty Days, no person or persons shall come and prove his, her, or their property in such Materials, nor any reputable person or persons on his, her, or their behalf, then the said Justices shall order and direct the same to be sold for the best price that can reasonably be had, and after deducting such charges as aforesaid, together with the charges of sale, one moiety of the money arising from such sale shall be given to the person or persons, or either of them, who shall apprehend or prosecute the offender or offenders guilty of either of the Misdemeanors aforesaid, as the said Justices shall appoint; and the other moiety thereof either to and amongst the Poor of the Parish, Town, or Place where the Convictions hall be, or to such public Charity or Charities as the Justices convicting shall appoint. 17 G. 3. c. 56. s. 13.

Every person deemed and adjudged guilty of a Misdemeanor, in having in his or her possession any Materials suspected to be purloined or embezzled, and not producing the party or parties being duly entitled to dispose of the same, of whom he or she bought or received the same, nor giving a satisfactory account how he or she came by the same; or of a Misdemeanor in having, carrying, or conveying of the said Materials suspected to be purloined or embezzled, and not producing the party or parties being duly entitled to dispose of the same, of whom he or she bought or received the same, nor any credible witness to testify upon oath, or (being of the people called Quakers) upon solemn Affirmation, the sale or delivery thereof, nor giving a satisfactory account how he or she came by the same (as the case shall be), shall for every such Misdemeanor forfeit, for the first offence,

If any person can prove his property in the said materials, they shall be delivered to him on paying the charges of removing, &c.;

but if no person prove his property in them, they shall be sold, &c.

Penalty on persons having in their possession materials suspected to be purloined, &c.

Forfeitures may
be levied by
distress.

On failure of
distress, offender
to be committed.

Owners of ma-
terials delivered
to journeymen,
&c. to be worked
up, may, at all
seasonable hours,
enter their shops
or outhouses, to
inspect their
materials.

Penalty on re-
fusal of entrance,
&c.

the sum of Twenty Pounds, and for the second offence the sum of Thirty Pounds, and for every subsequent offence the sum of Forty Pounds; all which said respective forfeitures shall and may be levied by distress and sale of the goods and chattels of every such offender (rendering to him or her the overplus, after charges of the said distress and sale deducted) by warrant under the hands and seals of the Justices before whom such offender shall be deemed and adjudged guilty; of which forfeiture, one moiety shall be paid to the informer, and the other moiety thereof to and amongst the Poor of the Parish, Town or Place where such Conviction shall be, or to such public Charity or Charities as the Justices convicting shall appoint; and if no sufficient distress shall be found whereon to levy the said respective forfeitures, then the said Justices shall and may commit every such offender, so respectively deemed and adjudged guilty as aforesaid, to the Common Gaol, or other Prison, or House of Correction, within his or their Jurisdiction, without Bail or Mainprize, for the space of One Month, for the first offence; and for the second offence, for the space of Two Months; and for every subsequent offence, for the space of Six Months. 17 G. 3. c. 56. s. 14.

The fifteenth section recites, that it sometimes happens, by occasion of the very long detention of such Materials as aforesaid, delivered out to Journeymen or other persons employed to work up the same, it cannot be known to the Master or Owners of such Materials, whether the same may have been purloined or embezzled, or whether the said Materials are wholly or in part wrought or begun to be wrought, or in what state or condition such Materials may be; for remedy whereof, it is further enacted, that from and after the said First Day of July 1777, it shall be lawful for the owner or owners of any such Materials, from time to time, as occasion shall require, to demand entrance, and enter, at all seasonable hours in the day-time, into the shops or outhouses of any person or persons employed by him or them to work up any of the said Materials, or other place or places where the Work shall be carried on, and there to inspect the state and condition of such Materials; and in case of refusal, by any such person or persons so employed, to permit such entrance or inspection, he, she, or they so refusing, shall forfeit and pay such sum of Money, not exceeding Forty Shillings, nor less than Ten Shillings, as the Justices, before whom he, she, or they shall be convicted, shall think proper, to be recovered and applied in the same manner as is by this Act directed for

the misdemeanor of being in the possession of any such Materials, without being able to account satisfactorily for such possession.

And whereas the said recited Act of the Twenty-second Year of the reign of his late Majesty King George the Second, contains no provision for the protection and recovery of the Tools and Implements with which any person or persons employed in preparing, working up, or manufacturing such Materials as aforesaid, shall be entrusted for that purpose; nor any provision in respect to the Drugs and Ingredients used in dying, preparing, or manufacturing such of the said Materials as are usually dyed, prepared, or manufactured; be it therefore enacted, that from and after the said First Day of July 1777, every penalty or punishment directed by, or other provision contained in the said recited Act, in respect to the said Materials, so far as the said recited Act is not varied by this Act, and all the provisions in this Act contained in respect to the said Materials, shall extend and be applicable to any Tool or Tools, and Implement or Implements, with which any person or persons shall be entrusted for making, working up, or manufacturing the said Materials, and also to any Drug or Drugs, Ingredient or Ingredients, with which any person or persons shall be entrusted, for the purpose of dying, preparing, or manufacturing such of the aforesaid Materials as are usually dyed, prepared, or manufactured, in the same manner as if the said Tools and Implements, Drugs and Ingredients, were particularly mentioned, both in the said recited Act, and in the preceding provisions of this Act. 17 G. 3. c. 56. s. 16.

All penalties in the Act 22 G. 2. and in this Act relating to the said materials, shall be applicable to the tools, &c. with which any person is entrusted for manufacturing the same.

And whereas Journeymen Dyers, Servants, and Apprentices, frequently abuse the trust reposed in them, by dying Goods for their own profit, without the consent of their Masters; be it therefore enacted, that from and after the said First Day of July 1777, if any person hired, retained, or employed as a Journeyman Dyer, or as a Servant or Apprentice, in the dying of any Felt or Hat, or any Woollen, Linen, Fustian, Cotton, Leather, Fur, Flax, Mohair, or Silk Materials, whether the same shall be wrought or unwrought, or shall be mixed or unmixed with other of the said Materials, shall, without the consent of the Master, Person or Persons by whom such Journeyman, Servant, or Apprentice shall be hired, retained, or employed, willfully dye any of the said Materials, whether wrought or unwrought, or mixed or unmixed with other of the said Materials, or without such consent shall wilfully receive any such Materials as aforesaid, for the purpose of dying the same, whether the same

If any journeyman dyer, &c. shall, without the consent of his employer, dye any woollen, linen, &c.

he shall forfeit
for the first
offence 10 s.
etc.;

or if any person
shall procure
any such mate-
rials to be so
dyed,

he shall forfeit
for the first
offence 5 s. etc.

Inhabitants of
any parish
wherein any of
the aforesaid
offences shall be
committed, to be
deemed com-
petent witnesses.

Justice of Peace,
on complaint to
him made upon
oath of any
offence against
this act, may
issue his warrant
for apprehending
the offender.

shall be dyed or prepared for dying; he or she so guilty of either of the said offences shall, for the first offence, forfeit the sum of Ten Shillings, and for the second offence the sum of Twenty Shillings, and for every subsequent offence the sum of Forty Shillings; or if any person shall procure any such Materials as aforesaid to be dyed by any person so hired, retained, or employed as a Journeyman, Servant, or Apprentice, without the consent of his or her Master or Employer, or shall offer any such Materials to any such Journeyman, Servant, or Apprentice, for the purpose aforesaid, he or she so offending, being thereof lawfully convicted, by the oath, or (being of the people called Quakers) affirmation, of one or more credible Witness or Witnesses, before two or more Justices of the Peace for the County, Riding, Division, City, Liberty, Town or Place, where the offence shall be committed, shall, for the first offence, forfeit the sum of Five Shillings, and for the second offence the sum of Twenty Shillings, and for every subsequent offence the sum of Four Pounds; and each of the said penalties shall be paid to the Informer or Informers; and in case of nonpayment on Conviction, the person so convicted shall be committed, by the Justices before whom the Conviction shall be, to the common Gaol or House of Correction, to remain for any time not exceeding One Month, as such Justices shall order and direct. s. 17.

Provided always, that any Inhabitant of any Parish, Township, or Place, in which any offence shall be committed contrary to the Act of the Twelfth Year of the Reign of his late Majesty King George the First, or contrary to the Act of the Twenty-second Year of his late Majesty King George the Second, or contrary to this Act, shall be deemed a competent Witness, notwithstanding his or her being an Inhabitant of such Parish, Township, or Place. 17 G. 3. c. 56. s. 18.

It shall and may be lawful to and for any one Justice of the Peace of any County, Riding, Division, City, Liberty, Town, or Place, and he is hereby required, upon complaint to him made upon oath, or (if the person complaining be of the people called Quakers) solemn affirmation, of any offence committed against this Act, within the same County, Riding, Division, City, Liberty, Town, or Place, to issue his Warrant for apprehending, and bringing before any Two or more Justices of the Peace of the same County, Riding, Division, City, Liberty, Town, or Place, the person or persons charged with such offence; and the Justices before whom such person or persons shall be brought, are hereby authorized and required to hear and determine the

matter of such complaint, and to proceed to Judgement and Conviction thereupon. 17 G. 3. c. 56. s. 19.

And whereas the said Act of the Twenty-second Year of the Reign of his late Majesty King George the Second only gives an Appeal from an Order of any Justice or Justices of the Peace to the General or General Quarter Sessions of the Peace, where an Order is made by any Justice or Justices of the Peace, in the case of the Buyer or Receiver of such purloined or embezzled Materials as aforesaid, and in respect to the sale or disposal of such Materials found on searching by Warrant after any Conviction for purloining or embezzling, or for receiving or buying such purloined or embezzled Materials: And whereas it is thought more proper to give a right of appealing in the case of other Orders of any Justice or Justices of the Peace, to be made by force of an Act made in the Twelfth Year of the Reign of his late Majesty King George the First, [12 G. 1. c. 34.] and of the said Act, and also in the case of all Orders to be made by any Justices of the Peace under this Act; be it therefore further enacted, that if any person shall think himself or herself aggrieved by the Order or Judgment of any Two Justices before whom he or she shall have been convicted of any of the Offences in the said Acts of the Twelfth Year of the Reign of King George the First, and the Twenty-second Year of the Reign of King George the Second, or in this Act, such person may appeal, and the said Justices are hereby required to make known to such person, at the time of such Conviction, his or her right to appeal, to the next General or General Quarter Sessions of the Peace to be holden for the County, Riding, Division, City, Liberty, Town, or Place, where such Conviction shall have been made, (such person at the time of such Conviction giving to such Justices Notice in Writing of his or her intention to appeal, and also entering into a Recognizance at the time of such Notice, with sufficient Sureties, conditioned to try such Appeal, and to abide the Judgment of, and pay such Costs as shall be awarded by the Justices at such Sessions); but if the person giving such notice of Appeal shall not, at the time of giving such Notice, enter into such Recognizance as aforesaid, then the Justices to whom such Notice of Appeal shall have been given, shall and may commit such person or persons to the House of Correction or other public Prison of such County, Riding, Division, City, Liberty, Town, or Place, there to remain until the said next General or General Quarter Sessions of the Peace to be holden in and for such Place, unless

Persons aggrieved by the order of any two Justices, etc. may appeal to the Quarter Sessions;

giving notice to such Justices of their intention to appeal, and entering into Recognizance, etc.

How the Delinquent shall be punished in case the Sessions confirm his conviction.

such Recognizance shall be sooner entered into; and the said Justices before whom such Conviction shall have been made, or any other Two or more Justices of the same County, Riding, Division, City, Liberty, Town, or Place, are hereby empowered and required to take, and the Justices at such Sessions are hereby authorized and required, upon due proof made of such Notice of Appeal, either by the acknowledgment of the Justices to whom the same shall have been given, or otherwise, to hear and determine the matter of the said Appeal, and to award such Costs as to them shall appear just and reasonable, to be paid by either Party; and if upon the hearing of such Appeal, the Judgment of the Justices before whom the Appellant shall have been convicted shall be affirmed, such Appellant shall, within Forty-eight Hours next after the same shall be so affirmed, suffer such corporal Punishment as shall have been directed to be inflicted upon him or her for the Offence whereof he or she shall have been convicted, or shall immediately pay the Sum which he or she shall have been adjudged to forfeit, together with such Costs as the Justices in the said Sessions shall award to be paid by him or her for defraying the Expences sustained by the Defendant or Defendants in such Appeal; or in default of making such Payments shall be committed to the common Gaol or House of Correction, in the same manner and for the same time, to be computed from the affirmance of such Conviction, as shall be directed by the original Judgment of Conviction, unless the person or persons so convicted shall have been imprisoned under the original Conviction, in which case the time for which such person or persons shall have been so confined shall be included in the Order of Confirmation. 17 G. 3. c. 56. s. 20.

Part of an Act of 23 G. 2. repealed.

And whereas an Act passed in the Twenty-third Year of the Reign of his late Majesty King George the Second (intituled An Act for the more effectually punishing of persons convicted of seducing Artificers in the Manufactures of Great Britain or Ireland, out of the Dominions of the Crown of Great Britain; and to prevent the Exportation of Utensils made use of in the Woollen and Silk Manufactures, from Great Britain or Ireland into Foreign Parts; and for the more easy and speedy Determination of Appeals, allowed in certain cases by an Act made in the last Session of Parliament, relating to persons employed in the several Manufactures therein mentioned), prescribes a Form for Conviction of the several Offences mentioned in the said recited Act of the Twenty-second of George the Second;

but such Form is not adapted to the said last-mentioned Act as altered by this Act; and it may be useful to have one general Form for the said recited Act of the Twenty-second of George the Second, and this Act; be it therefore further enacted, that in respect to all Offences which from and after the said 1st July 1777, shall be committed against the said recited Act of the Twenty-second of George the Second, so much of the said Act of the Twenty-third of George the Second, as prescribes a Form of Conviction for Offences against the said Act of the Twenty-second of George the Second, shall be repealed; and that from and after the said 1st July 1777, the Justices before whom any Offender shall be convicted of any Offence, either against the said Act of the Twenty-second of George the Second, or varied by this Act, or against this Act, shall cause the Conviction to be certified to the next General or General Quarter Session of the Peace to be held in and for the County, Riding, Division, City, Liberty, Town, or Place where such Conviction was made, to be filed with the Records of such Sessions; and such Conviction shall and may be drawn up and written on Parchment, and certified in the following form of words, as far as the name of the person and the nature of the case will admit of; (that is to say);

How Justices to proceed for conviction of offenders against the said Act of 22 G. 2. or this Act.

Middlesex
(or any other
place, as the
case shall be)
to wit.

BE it remembered, That on the
Day of in the Year of our
Lord A. B. was convicted
before us of his Majesty's Jus-
tices of the Peace in and for the said County of
or, for the Riding of the
said County of or, for the City,
Liberty, Town, or Place aforesaid, in the said
County (as the case shall be)
of [Here specify the Offence, and when and
where the same was committed.]

Form of conviction.

Given under our Hands and Seals, the Day
and Year first above written. s. 21.

Provided always, that no Order made, touching or concerning any of the matters in this Act contained, or any Proceedings to be had touching the Conviction of any Offender or Offenders against the said Act of the Twenty-second of George the Second, or this Act, shall be quashed for want of form, or be removed or removable by Certiorari into his Majesty's Court of King's Bench; and the Justices before whom such Convictions shall be had, shall cause the same, drawn up in the

Proceedings not to be quashed for want of form;

nor removed by Certiorari.

Form aforesaid, to be fairly written upon Parchment, and transmitted to the next General or General Quarter Sessions of the Peace to be held for the County, Riding, Division, City, Liberty, Town, or Place wherein such Conviction was had, to be filed and kept amongst the Records of the said General or General Quarter Sessions; and in case the person or persons so convicted shall appeal from the Judgment of the said Justices to the said General or General Quarter Sessions, the Justices on such General or General Quarter Sessions are hereby required, upon receiving the said Conviction drawn up in the Form aforesaid, to proceed to the hearing and determination of the matter of the said Appeal, according to the Direction of the said Act, any Law or Usage to the contrary notwithstanding. 17 G. 3. c. 56. s. 22.

This Act not to repeal any former law, except as is herein particularly expressed;

Provided also, that nothing herein contained shall extend, or be construed to extend, to repeal any former Law or Laws now in being, for the punishment of any of the Offences herein above specified, except so far as is particularly expressed by this Act; and no Offender who shall have been proceeded against, upon or by virtue of this Act, for any of the Offences herein specified, shall for the same Offence be afterwards proceeded against upon or by virtue of any such former Law or Laws. s. 23.

nor to extend to any offence committed against the Act 22 G. 2. before July 1, 1777.

Provided also, that nothing contained in this Act shall extend to or affect any person or persons for any Offence committed or to be committed against the said recited Act of the Twenty-second Year of the Reign of his late Majesty King George the Second, before the said 1st July 1777; but all and ever, such Offender and Offenders shall and may be prosecuted and punished in the same manner as if this Act had not been made. s. 24.

Limitation of actions.

If any Suit or Action shall be commenced or prosecuted against any person or persons, for any thing done or to be done in pursuance of this Act, every such Suit or Action shall be severally brought, laid, and tried in the County or place where the fact was committed, and not elsewhere; and the Defendant or Defendants in every such Action or Suit shall and may plead the General Issue, and give this Act and the special matter in Evidence at any Trial to be had thereupon, and that the same was done in pursuance of and by the authority of this Act; and if it shall appear to be so done, or if any such Suit or Action shall be brought in any other County or place than where the fact was committed, then the Jury shall find for the Defendant or Defendants; and upon such Verdict, or if the

General issue.

Plaintiff or Plaintiffs shall become nonsuit, or discontinue his, her, or their Action after the Defendant or Defendants shall have appeared, or if, upon Demurrer, Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants shall and may recover Treble Costs, and have the like remedy for the same as any Defendant or Defendants hath or have for Costs in other cases at Law. 17 G. 3. c. 56. s. 25. Treble costs.

XXI. Accessories in Larceny and Robbery.

† (And see title RECEIVING STOLEN GOODS.)

The Statute 23 H. 8. c. 1. s. 3. enacts that no person or persons which hereafter shall happen to be found guilty after the Laws of this Land for any manner of Petit Treason, or for any wilful Murder of malice prepensed, or for robbing of any Churches, Chapels, or other Holy Places, or for robbing of any person or persons in the Dwelling-houses or Dwelling-places, the Owner or Dweller in the same House, his Wife, his Children or Servants then being within and put in fear and dread by the same, or for robbing of any person or persons in or near about the Highways, or for wilful burning of any Dwelling-houses or Barns wherein any Grain or Corns shall happen to be, nor any person or persons being found guilty of any abetment, procurement, helping, maintaining, or counselling of or to any such Petit Treasons, Murders, or Felonies, shall from henceforth be admitted to the benefit of his or their Clergy, but utterly be excluded thereof, and suffer death in such manner and form as they should have done for any the Causes or Offences aforesaid, if they were no Clerks; such as be within Holy Orders, that is to say, of the Orders of Subdeacon or above, only except. § 1.

Accessories to certain felonies, ousted of clergy.

This Statute was made perpetual by 32 H. 8. c. 3. s. 7.

Then the Statute 25 H. 8. c. 3. s. 2. (for the preamble to which see this title Division I. s. 2.) enacts, that every person and persons that is or hereafter shall be indicted of Petit Treason, wilful burning of Houses, Murther, Robbery, or Burglary, or other Felony, according to the tenor and meaning of the same Statute [23 H. 8. c. 1.] and thereupon arraigned do stand mute of malice or froward mind, or challenge peremptorily above the number of Twenty, or else will not or do not answer directly to the same Indictment and Felony whereupon he is so arraigned, shall from henceforth lose the benefit and privilege of his or their Clergy, in like manner and form as § 2.

Extended to such offenders standing mute, &c.

if he had directly pleaded to the same Petit Treason, Murder, Robbery, Burglary, or other Felony whereupon he is so arraigned, not guilty, and thereupon had been found guilty after the Laws of the Land.

This Statute was also made perpetual by 32 H. 8. c. 3. s. 7.

§ 3.

Accessory in one county to a felony in another, shall be tried where the offence of accessory took place.

Where it is a common practice amongst errant Thieves and Robbers, that after they have robbed or stolen in one County, they will convey their spoil or part thereof unto some of their Adherents into some other County, who knowing of such Felony willingly and by false covin receiveth the same; in which case, although the principal Felon be after attainted in one County, the Accessary escapeth by reason that he was Accessary in another County, and that the Juries of the said other County, by any Law yet made, can take no knowledge of the principal Felony ne Attainder in the first County; for remedy and punishment of which Offence, be it enacted, that where any Murder or Felony hereafter shall be done in one County, and another person or more shall be Accessary or Accessaries to any such Murder or Felony in any other County, that then an Indictment found or taken against such Accessary and Accessaries upon the circumstance of such matter, before the Justices of the Peace or other Justices or Commissioners to enquire of Felonies in the County where such Offence of Accessary shall be committed, shall be as good and effectual in Law as if such principal Offence had been committed within the same County where the same Indictment against such Accessary shall be found; and that the Justices of Gaol Delivery or Oyer and Terminer or two of them, of or in such County where the Offence of such Accessary shall be hereafter committed, upon suit to them made, shall write to the Custos Rotulor. or Keeper of the Records where such Principal shall be attainted or convicted, to certify them whether such principal be attainted, convicted, or otherwise discharged of such principal Felony; who shall make sufficient Certificate in Writing under their Seal to the said Justices, whether such Principal be attainted, convicted, or otherwise discharged or not; and after such Certificate, the Justices of Gaol Delivery or of Oyer and Terminer, or other then authorized, shall proceed upon every such Accessary in the County where such Accessary became Accessary, in such manner as if both the said Principal Offence and Accessary had been committed in the same County where the Offence of Accessary was committed; and every such Accessary shall answer upon their Arraignments, and receive such Trial, Judgment, Order, and Execution, and suffer such

Forfeitures, Pains, and Penalties, as is used in other cases of Felony. 2, 3 Edw. 6. c. 24. s. 4.

(And see title CLERGY, BENEFIT OF.)

By the Statute 3 W. & M. c. 9. s. 1. all and every person and persons that shall at any time hereafter rob any other person, or shall feloniously take away any Goods or Chattels being in any Dwelling House, the owner or any other person being therein and put in fear, or shall rob any Dwelling House in the day time, any person being therein, or shall comfort, aid, abet, assist, counsel, hire, or command any person or persons to commit any of the said offences, or to break any Dwelling House, Shop, or Warehouse thereunto belonging, or therewith used, in the day-time, and feloniously take away any Money, Goods, or Chattel of the value of five shillings or upwards therein being, although no person shall be within such Dwelling House, Shop, or Warehouse, being thereof convicted or attainted, or being indicted thereof shall stand mute or will not directly answer to the Indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the Jury, shall not have the benefit of his or their Clergy.

§ 4.
Accessaries to
housebreakers,
&c. ousted of
clergy.

This Statute is continued by Statute 4, 5 W. & M. c. 24. s. 13.; and made perpetual by 6, 7 W. 3. c. 14. s. 1.

All and every person and persons that shall maliciously command, hire, or counsel any person or persons to commit or do any Petit Treason, Wilful Murder, or to do any Robbery in any Dwelling House or Houses, or to commit or do any Robbery in or near any Highway in England, or in any other the Queen's Dominions, or to commit or do any Robbery in any places within the Marches of England against Scotland, or wilfully to burn any Dwelling House, or any part thereof, or any Barn then having Corn or Grain in the same, that then every such offender or offenders, being outlawed thereof, or being thereof arraigned and found guilty by the order of the law, or being otherwise lawfully attainted or convicted of the same offence, or being arraigned thereof do stand mute of malice or froward mind, or do challenge peremptorily above the number of twenty persons, or will not answer directly to such offence, shall not have the benefit of his Clergy. 4, 5 P. & M. c. 4.

§ 5.
Accessaries before the fact in
petty treason,
murder, robbery,
or wilful burning,
ousted of
clergy.

Peers shall be tried by their Peers. s. 2.

The Statute 10, 11 W. 3. c. 23. (s. 1.) enacts, that all and every person and persons that shall at any time and times, by night or in the day-time, from and after May 20, 1699, in any Shop,

§ 6.
Accessaries to
larceny above
the value of 5s.

privately in any shop, &c. ousted of clergy.

Warehouse, Coach House, or Stable, privately and feloniously steal any Goods, Wares, or Merchandizes, being of the value of five shillings or more (although such Shop, Warehouse, Coach House, or Stable be not actually broke open by such offender or offenders, and although the owners of such Goods or any other person or persons be or be not in such Shop, Warehouse, Coach House, or Stable to be put in fear; or shall assist, hire, or command any person or persons to commit such offence, being thereof convicted or attainted by verdict or confession, or being indicted thereof shall stand mute, or will not directly answer to the Indictment, or shall peremptorily challenge above the number of three and twenty persons returned to be of the Jury, shall by virtue of this Act be absolutely debarred and excluded of and from the benefit of the Clergy.

§ 7.

The Statute 1 Ann. st. 2. c. 9. s. 1. reciting that forasmuch as the Counsellors and Contrivers of Theft and other Felonies, and the Receivers of Goods that have been stolen, are the principal cause of the commission of such Felonies, and, as the law now is, no accessory can be convicted or suffer any punishment where the principal is not attainted, or hath the benefit of his Clergy, enacts, that from and after 12 February 1702, if any Principal offender shall be convicted of any Felony, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to serve of the Jury, it shall and may be lawful to proceed against any Accessary, either before or after the Fact, in the same manner as if such principal Felon had been attainted thereof, notwithstanding any such principal Felon shall be admitted to the benefit of his Clergy, pardoned, or otherwise delivered before Attainder; and every such Accessary shall suffer the same punishment if he or she be convicted, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to serve of the Jury, as he or she should have suffered if the Principal had been attainted.

Accessaries before or after the fact may be prosecuted although the principal be allowed clergy, pardoned, &c. before attainder.

§ 8.

And forasmuch as the said Felons (1) are much encouraged to commit such Burglaries and Felonies because a great number of persons make it a trade to receive and buy of the said Felons the Goods so by them feloniously taken, and also do make it their business to harbour and conceal the said offenders after the said facts, knowing the said Felonies and Burglaries to have been by them committed: be it therefore enacted, that if any

(1) The Act in the previous sections mentions burglars and house-breakers. See title REWARDS.

person or persons shall receive or buy any Goods or Chattels that shall be feloniously taken or stolen from any other person, knowing the same to be stolen; or shall receive, harbour, or conceal any Burglars, Felons, or Thieves, knowing them to be so, shall be taken and received as Accessary or Accessories to the said Felony or Felonies, and being of either of the said offences legally convicted by the testimony of one or more credible witnesses, shall suffer and incur the pains of Death as a Felon convict. 5 Ann. c. 31. s. 5.

Accessaries after the fact by receiving, &c. burglars, &c. or stolen goods, ousted of clergy.

Provided always, that if any such principal Felon cannot be taken so as to be prosecuted and convicted for any such offence, yet nevertheless it shall and may be lawful to prosecute and punish every such person and persons buying or receiving any Goods stolen by any such principal Felon, knowing the same to be stolen, as for a Misdemeanor, to be punished by fine and imprisonment, or other such corporal punishment as the Court shall think fit to inflict, although the principal Felon be not before convict of the said Felony which shall exempt the offender from being punished as Accessary if such principal Felon shall be afterwards taken and convicted. s. 6.

By the Statute 12 Ann. st. 1. c. 7. it is enacted, that all and every person or persons that shall, at any time from and after 1 July 1713, feloniously steal any Money, Goods or Chattels, Wares or Merchandizes, of the value of Forty Shillings or more, being in any Dwelling House, or Outhouse thereunto belonging, although such House or Outhouse be not actually broken by such offender, and although the owner of such Goods, or any other person or persons, be or be not in such House or Outhouse, or shall assist or aid any person or persons to commit any such offence, being thereof convicted or attainted, by verdict or confession, on being indicted thereof shall stand mute, or will not directly answer to the indictment, or shall peremptorily challenge above the number of twenty returned to be of the Jury, shall, by virtue of this Act, be absolutely debarred of and from the benefit of Clergy; any Law or Custom to the contrary notwithstanding.

§ 9.

Accessaries to larceny in a dwelling house to the amount of 40s. ousted of clergy.

Nothing in this Act shall extend to Apprentices under the age of fifteen years, who shall rob their Masters as aforesaid. s. 2.

Lastly, The Statute 43 G. 3. c. 113. s. 5. recites that "it is convenient that Accessories to Felonies committed within the body of any County within this Realm, should be by law liable to be tried as well in the County wherein the principal Felony

§ 10.

Accessaries to felonies may be tried either in the county where the principal offence was committed or in that where the offence of being accessory took place; and if the principal felony was committed on the high seas, the Accessaries shall be tried as directed by 28 H. 8. c. 15.

was committed as in the County in which they so became Accessaries; and also that Accessaries to Felonies committed upon the High Seas, should be by law liable to be tried by such Court and in such manner as by the Act made in the 28th year of King Henry the Eighth [28 H. 8. c. 15. see title PIRACY.] is directed in respect to Felonies done upon the High Seas; and then enacts, that from and after 16 July 1803, in all cases whatsoever in which any person or persons shall hereafter procure, direct, counsel, or command any other person or persons to commit, or shall abet any other person or persons in committing any Felony whatsoever, or shall in anywise whatsoever become an Accessary or Accessaries before the fact to any Felony whatsoever, whether such principal Felony be committed within the body of any County within this Realm, or upon the High Seas, and whether such procuring, directing, counselling, commanding, and abetting, or otherwise becoming Accessary or Accessaries before the fact, shall have been committed or done within the body of any County within this Realm, or upon the High Seas, that then and in all such cases, the offence of the person or persons so procuring, directing, counselling, commanding, or abetting such Felony, or so in anywise becoming Accessary or Accessaries before the fact to such Felony, shall and may be inquired of, tried, determined, and adjudged, in case such principal Felony shall have been committed within the body of any County within this Realm, by the course of the Common Law, either within such County wherein the said principal Felony shall have been committed, or within the County where the said offence in procuring, directing, counselling, commanding, and abetting, or otherwise becoming Accessary or Accessaries before the fact, shall have been committed or done; and in case the said principal Felony shall have been committed upon the High Seas, then the said offence in procuring, directing, counselling, commanding, or abetting such Felony, or of so becoming an Accessary or Accessaries before the fact to the same, shall and may be inquired of in and by such Court, and in such manner and form, as in and by the said Act [28 H. 8. c. 15.] is appointed and directed for the trying, determining, and adjudging of Felonies done upon the High Seas.

Persons shall only be once tried for the same offence.

Provided always, that no person or persons who shall hereafter be once tried and acquitted or convicted of any such offence in procuring, directing, counselling, commanding, or abetting any Felony, or of otherwise becoming an Accessary or Accessa-

ries before the fact to such Felony, whether the trial of such person or persons shall have been had according to the course of the Common Law, as in the case of a Felony committed within the body of any County in this Realm, or according to the provisions contained in the Statute made in the Eight-and-twentieth Year of the Reign of King Henry, the Eighth, as in the case of a Felony committed on the High Seas, shall be liable to be again indicted, prosecuted, or tried, for the same offence, in any Court or Jurisdiction whatsoever.

XXII. Trial of Offenders committing Larceny, Robbery, or Burglary in one part of the Kingdom, and being found with the Goods in another part thereof.

(And see title CLERGY, BENEFIT OF, § 5. and this title.
Division XXI.

The Statute 25 H. 8. c. 3. recites “that divers and many Felons and Robbers that commit and do divers and many great heinous Robberies and Burglaries in one Shire, and convey the Spoil and Robbery into any other Shire, and there be taken, indicted, and arraigned upon Felony and felonious stealing of the same Goods in the same other Shire than there where the same Robberies or Burglaries were done and committed, and not upon the same Robbery nor Burglary, for that it was not done nor committed in the same Shire where they be so indicted and arraigned, and by reason thereof the same Misdemeanors, Felons, Robbers, and Burglars have and enjoy the privilege and advantage of their Clergy, to the great hurt and loss of the King’s Prerogative and great boldness of such Offenders;” and then, “in consideration thereof,” enacts, that if any person or persons hereafter be indicted of Felony for stealing of any Goods or Chattels in any County within this Realm of England, and thereupon arraigned and be found guilty, or stand mute of Malice, or challenge peremptorily above the number of Twenty Persons, as is aforesaid, or will not upon his said Arraignment directly answer to the same Felony, that then the same person and persons so arraigned and found guilty, or stand mute of Malice, or challenge peremptorily above the number of Twenty Persons, or will not directly answer to the Law, shall lose and be put from the Benefit of their Clergy, in like manner and form as they should have been if they had been indicted and arraigned, and found guilty in the same County where the same Robbery or Burglary was done or committed, if it shall appear to

Offenders stealing goods by robbery or burglary in one county and attainted in another county, shall lose their clergy, if it appear that the original felony was also robbery or burglary.

the Justices before whom any such Felons or Robbers be arraigned, by Evidence given before them, or by Examination, that the same Felonies whereupon they be so arraigned, had been such Robberies or Burglaries in the same Shire where such Robberies or Burglaries were committed or done by reason whereof they should have lost the Benefit of their Clergy by force of the said Statute [23 H. 8. c. 1.] in case they had been found guilty thereof in the same Shire where such Robberies or Burglaries were so committed or done.

This Statute is made perpetual by the Statute 32 H. 8. c. 3. s. 7.

Persons stealing money or goods, &c. in one part of the kingdom, and found there-with in another part, may be tried where they so have such money, &c.

The Statute 13 G. 3. c. 31. (s. 4.) recites that it frequently happens in both parts of the United Kingdom, that persons having stolen or otherwise feloniously taken away Money, Cattle, Goods, or other Effects, carry the same into the other part of the United Kingdom, and there have the said Money, Cattle, Goods, or other Effects, in their possession or custody; and doubts have been entertained, whether they could be indicted and tried in that part of the United Kingdom, as the original offence was not there committed; and then enacts, that from after the passing of this Act, if any person or persons having stolen or otherwise feloniously taken Money, Cattle, Goods, or other Effects, in either part of the United Kingdom, shall afterwards have the same Money, Cattle, Goods, or other Effects, or any part thereof, in his, her, or their possession or custody, in the other part of the United Kingdom, it shall and may be lawful to indict, try, and punish such person or persons for Theft or Larceny in that part of the United Kingdom where he, she, or they shall so have such Money, Cattle, Goods, or other effects, in his, her, or their possession or custody, as if the said Money, Cattle, Goods, or other Effects had been stolen in that part of the United Kingdom.

Offenders escaping with stolen money, cattle, goods, &c. from one part of the United Kingdom to another, may be tried for larceny in that part where they shall have such goods.

The Statute 44 G. 3. c. 92. s. 7. recites, that it frequently happens, that persons having stolen or otherwise feloniously taken away Money, Cattle, Goods, or other Effects, in one of the parts of the United Kingdom, carry the same into another part of the said United Kingdom, and there have the said Money, Cattle, Goods, or other Effects, in their possession or custody; and that doubts may be entertained whether they could be indicted and tried in that part of the United Kingdom where such Offenders have the said Money, Cattle, Goods, and other Effects in their possession or custody, as the original Offence was not committed in such part of the said United

Kingdom; and then enacts and declares, that from and after the first day of August 1804, if any person or persons having stolen or otherwise feloniously taken Money, Cattle, Goods, or other Effects, in any one of the parts of the said United Kingdom, shall afterwards have the same Money, Goods, Chattels, or other Effects, or any part thereof, in his, her, or their possession or custody, in any other part of the United Kingdom, it shall and may be lawful to indict, try, and punish such person or persons, for Theft or Larceny, in that part of the United Kingdom where he, she, or they shall so have such Money, Cattle, Goods, or other Effects, in his, her, or their possession or custody, as if the said Money, Cattle, Goods, or other Effects, had been stolen in that part of the United Kingdom.

XXIII. *Restitution of Stolen Goods.*

(And see titles CATTLE, I. § 3. STOLEN GOODS, HELPING TO.)

Be it enacted, that if any Felon or Felons hereafter do rob or take away any Money, Goods, or Chattels from any of the King's Subjects, from their person or otherwise, within this Realm, and thereof the said Felon or Felons be indicted and after arraigned of the same Felony and found guilty thereof, or otherwise attainted, by reason of evidence given by the Party so robbed, or Owner of the said Money, Goods, or Chattels, or by any other by their procurement, that then the Party so robbed or Owner shall be restored to his said Money, Goods, and Chattels; and that as well the Justices of Gaol Delivery as other Justices afore whom any such Felon or Felons shall be found guilty, or otherwise attainted, by reason of evidence given by the Party so robbed or Owner, or by any other by their procurement, have power by this present Act to award from time to time Writs of Restitution for the said Money, Goods, and Chattels, in like manner as though any such Felon or Felons were attainted at the suit of the Party in Appeal. 21 H. 8. c. 11.

§ 1.

Stolen goods shall be restored to the owner after attainder of the felon.

2 Bulstr. 310.
Cro. Eliz. 661.
Kel. 48.

5 Co. 110.

Any person publicly advertizing a reward with no questions asked, for the return of things which have been stolen or lost, or making use of any words in such public Advertizement purporting that such reward shall be given or paid without seizing or making enquiry after the person producing such thing so stolen or lost, or promising or offering in any such public Advertizement to return to any Pawnbroker or other person who may have bought or advanced Money by way of Loan upon

§ 2.

Persons advertizing a reward for the return of things stolen or lost, and the printer, shall forfeit £50.

such thing so stolen or lost the Money so paid or advanced, or any other sum of money or reward for the return of such thing; and any person printing or publishing such Advertizement, shall respectively forfeit the sum of Fifty Pounds (1) for every such Offence to any person who will sue for the same. 25 G. 2. c. 36. s. 1.

(1) Recoverable under s. 13. by action of debt in any of the Courts of Record at Westminster.

END OF THE FIRST PART.

I N D E X

TO THE

G E N E R A L M A T T E R.

=====

The Words in Italics denote the same Titles in this Volume. At the Head of most of those Titles in the Work will be found a Statement of their Contents.

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11-7-53

